

August 16, 2022

Boulder County, Colorado

# ADA Transition Plan with Public Comment

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## **ACKNOWLEDGEMENTS**

Development of the ADA Transition Plan was a team effort.

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## 1.0 INTRODUCTION

Boulder County, Colorado (the County), is updating its ADA Transition Plan to ensure that it meets its obligations under the Americans with Disabilities Act (ADA) and to promote equity and inclusivity for people with disabilities. The purpose of the Transition Plan is to identify those physical conditions in the County's facilities where it must undertake structural changes to facilities to achieve program accessibility. The County is aware that its primary goal under title II of the ADA is to verify that its services, programs, and activities, when viewed in their entirety, are accessible to and usable by qualified people with disabilities. When physical barriers prevent or might prevent access to a program the County must either remove such barriers or through other methods and means ensure that qualified individuals with disabilities can access those programs in the most integrated setting appropriate to the needs of the individual. This report summarizes why Boulder County reviewed their facilities, trailheads, parking and walkways in 2020 through 2021, what the findings were and what our proposed schedule will be to address obstacles for people with disabilities.

The County realizes that the ADA is a civil rights law intended to protect the rights of people with disabilities. Though the ADA does prescribe minimum scoping and technical provisions for the built environment, the law is not meant to be a building code. In fact, while building codes have evolved in the 31 years since the ADA's signing in 1990, simply complying with accessibility requirements of building codes does not and cannot guarantee full compliance with the ADA. Regardless of the ability to remove physical barriers, the County will modify its policies and practices and provide reasonable accommodations, including but not limited to the provision of auxiliary aids and services to achieve effective communication, to ensure that it does not discriminate against individuals with disabilities.

The County has contracted with ADA-consulting firm, Meeting the Challenge, Inc., A CP&Y Company (MTC), to assist with the County's development and adoption of a current Transition Plan. Beginning with a conference call to kick-off the project, on November 13, 2019, the County's project team and consultant's key personnel discussed the preliminary project schedule, scope of work, phases, and site visit schedule. The on-site audit of buildings/facilities and trailheads/open spaces was delayed, in part due to COVID-19 response, until late spring of 2020. Data collection at trailheads/open spaces was slowed somewhat by the increased number of people wanting to get outdoors when much of public space was locked down. Meanwhile, as the County's buildings/facilities were mostly vacant, data collectors were able to work very efficiently indoors. Data collection at the County Fairgrounds which was completed under MTC's subcontract to Design Workshop, was postponed until late November 2020.

In all, data was collected at 32 buildings and facilities, 32 trailheads/open spaces, and the Fairgrounds. That data was analyzed, initially, to evaluate which *as-is* conditions are not consistent with scoping and technical provisions of applicable standards and guidelines for physical accessibility. The next stage of analysis, completed collaboratively by County staff and the consultant, sought to identify whether public or programmatic access is usual or necessary in each location where *as-is* conditions which are not consistent with accessibility were found. Typically, areas where County staff can monitor or intercede with public access, which were labeled as *Public Supervised* spaces, require the most analysis to decide whether structural conditions which might be barriers to people with disabilities are/can be mitigated through modification in policies or practices. When methods or means other than structural barrier removal make services, programs, and activities accessible to and usable by people with disabilities, resources and budgets are conserved to address those barriers that must be removed.

Conversely, locations where the public has generally unfettered access (such as trailheads), are labeled as *Public Unsupervised*. In these areas, it is presumed that structural conditions which are not consistent with accessibility standards and guidelines must be remedied. However, there are exceptions even in *Public Unsupervised* locations. For example, while parking, restrooms, picnic tables, and other features and amenities which might be found at a trailhead/open space, must be accessible (i.e., barriers must be removed), title II regulations do not require structural changes to the trails themselves which would result in fundamental alteration to the nature of the

program. That is, narrow open space trails which follow the terrain with sometimes steep climbs and natural barriers, such as rocks and tree roots, are not required to meet accessibility requirements for every element or feature. Where the beginnings of such trails are somewhat accessible, best practice is the provision of signs at trailheads which explain to what degree and how far the trail might be accessible to qualified individuals with disabilities (see Architectural Barriers Act Accessibility Standards [1017.10 Trailhead Signs](#)).

To summarize, it is not the purpose of the ADA to alter or rebuild all features of either the built or the natural environment. The purpose of title II of the ADA is to eliminate disability-based discrimination and facilitate inclusion and participation by qualified individuals with disabilities in public programs, viewed in their entirety, in the most integrated setting appropriate to the needs of individuals with disabilities. To that end, although the County's ADA Transition Plan identifies structural barriers which must be removed, the purpose and intention at the core of the Self-evaluation process must be human-centered. Beyond the obvious physical barriers, such as stairs where there should be a ramp, title II requires public entities to address any conditions, including attitudes (for example, implicit bias), policies, practices, and procedures which prevent, or might prevent, qualified individuals with disabilities from having equal opportunities to participate in public life.

*Note: appendices attached to the Transition Plan are interim, draft documents delivered during the project. These documents are provided with the Transition Plan to demonstrate the process of developing the plan. These documents were not intended to be conclusive and depending on feedback from County staff, some have not been changed since the original drafts. However, the content of the drafts informed discussions and decisions essential to the development of this Transition Plan. An ADA Glossary is included among the appendices, recognizing that many terms, acronyms, and jargon, which reflect the ADA's regulatory language and common usage of the U.S. Access Board, the U.S. Department of Justice, and ADA consultants, are not familiar to the public.*

## 1.1 Executive Summary

Raw data has been analyzed for 32 buildings/facilities, 32 trailheads/open spaces, and the Fairgrounds. Structural conditions, called *findings*, have been identified in the County's facilities which are not consistent with one or more scoping or technical provisions of accessibility standards or guidelines. Those conditions of findings located where they prevent or might prevent or limit the opportunity of qualified people with disabilities to access a County service, program, or activity are called *barriers*. The County is developing policies and practices to ensure, where and when elements of its facilities are not consistent with relevant standards or guidelines and cannot, within the limits of technical feasibility, be made fully accessible, that its employees will intervene and assist. Intervention and assistance by County employees may include the modification of County policies, practices, and procedures, necessary to give qualified people with disabilities equal opportunities to participate in the programs offered at those facilities. When such accommodations or modification of policies, practices, and procedures are not possible or effective, the County will relocate those programs to an alternate, accessible venue, or find other methods or means to deliver those programs in the most integrated setting appropriate to the needs of the individual.

*Findings* of noncompliance or not-best-practice have been determined based on applicable sections of the [2010 ADA Standards for Accessible Design](#) (ADA Standards), the [Outdoor Developed Areas](#) sections of the [Architectural Barriers Act Accessibility Standards](#) (ODA/ABAAS), and the U.S. Department of Justice (DOJ) [Part 35](#) regulations enforcing title II of the ADA. For each finding, a citation is referenced to the applicable sections of ADA Standards or ODA/ABAAS.

The County's Transition Plan lists those findings which are *barriers* to program access and must be removed or structurally changed to achieve program access. These barriers are described as *noncompliant* when they are not consistent with ADA Standards. They are described as *not-best-practice*, when they are not consistent with guidelines or federal standards which DOJ has not (yet) issued for the ADA. Regardless, conditions which prevent



or might prevent or limit access to a County program are barriers listed in the Transition Plan. The County, based on consultant's recommendation, has decided to apply ODA/ABAAS as best practices, where spaces and elements (such as, trailheads, picnic areas, viewing areas, and other components of outdoor developed areas) covered by these federal standards are not addressed by the ADA Standards.

The County understands that the ultimate determination of compliance with title II is based on the affirmative requirements and prohibitions of discrimination found in the Part 35 regulations which **do not** necessarily require a public entity to make each of its facilities accessible or take any action which would threaten or destroy the historic significance of an historic property. The regulations **do** require the County to ensure that each of its programs, when viewed in its entirety, is accessible to and usable by qualified individuals with disabilities. Remediation of conditions or removal of barriers by following best practices (where ADA Standards do not prescribe specific technical provisions for an element or architectural feature) demonstrates a *good faith effort* by Boulder County to ensure that the programs served by these facilities will be accessible to and usable by qualified individuals of all abilities, as required by title II of the ADA.

Boulder County will not deny a qualified person with a disability the opportunity to participate in services, programs, or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

This report summarizes the process by which the underlying data-tables were developed. It describes how the data were gathered and analyzed, recommends how the barriers should be removed, and an approach to prioritizing/scheduling the Transition Plan. The County names Julia Larsen as the person(s) responsible for implementing its Transition Plan.

The above-described process has provided detailed, raw data to the County for buildings/facilities, trailheads/open spaces, and the Fairgrounds which have been used to compile this Transition Plan.

The County intends the Transition Plan to be its road map to guide efforts to resolve physical obstacles which currently prevent or might prevent access to its services, programs, and activities. Presumed in the implementation of the Transition Plan is the County's intent to review and revise its policies and practices to effectively resolve physical barriers which would be technically infeasible to remove architecturally, entail undue financial and administrative burdens, result in fundamental alterations to the nature of programs, or defeat legitimate safety requirements. The County acknowledges that there may be instances where removing programs from an inaccessible space or building is the only feasible and non-burdensome means to make a program accessible.

The County will align any decisions about which of these barriers should be mitigated, how they should be mitigated, and when they should be mitigated, with the Part 35 regulations. This will be done in conjunction with its Self-evaluation of programs, policies, and practices. See appendices [C](#), [D](#), [E](#), [F](#), and [G](#), for details of Self-evaluation.

Section 3.0 *Transition Plan Development* will describe the steps taken to create the Transition Plan based on the barriers identified by the consultant and the County, and efforts to find other methods and means to overcome barriers. Section 4.0 *Transition Plan* will enumerate the four minimum regulatory requirements (see *Section 1.2 Regulatory Requirement for a Transition Plan*) of an ADA Transition Plan. The preliminary schedule for the Transition Plan anticipates 12 years to resolve findings in County buildings, 12 years to resolve findings in County trailheads/open spaces, 7 years to resolve findings at the County Fairgrounds. The Transition Plan is meant to be a living document and its schedule will necessarily be contingent on the County's budgetary resources from year to year, for the duration of the Transition Plan. In principle, as the cost of implementing the Transition Plan makes it clear that implementation will take many years, the earliest actions ought to be those which can cost effectively result in the greatest benefit to the greatest number of people. While other factors will be considered in scheduling maintenance, renovations, and alterations to County facilities, the priority for Transition Plan implementation should be human-centered.

## 1.2 Regulatory Requirement for a Transition Plan

Regulations require a transition plan when physical changes to facilities are necessary to achieve program accessibility. The purpose of title II of the ADA is not to drive an urban renewal plan for the County's infrastructure and buildings. Rather, the ADA is a civil rights law intended to include people with disabilities in the day-to-day life of American communities. To envision the ADA as an architectural code would be short-sighted. The County's Transition Plan is more than a list of barriers to be fixed.

The ADA Transition Plan will provide a path to a future that is accessible and inclusive for everyone. Like any plan, it should set objectives based on priorities which create realistic time-sensitive goals. The document should set "forth the steps necessary to complete such changes" ([§35.150\(d\)\(1\)](#)). Regulations originally required public entities with 50 or more employees to develop a transition plan "within six months of January 26, 1992". Structural changes were expected to "be made within three years of January 26, 1992, but in any event as expeditiously as possible" ([§35.150](#))(c).

The title II regulations do not include an affirmative requirement to update a transition plan developed in 1992 or to develop a new transition plan at any given interval. However, as the ongoing compliance with the ADA is required, the County has committed to the update of its Transition Plan to ensure that its programs, when viewed in their entirety, remain accessible to and usable by qualified people of all abilities. It is obvious that the County has taken many actions – created new programs, moved programs to different locations, built new structures, and altered existing structures – in the normal course of community growth since the dawn of the ADA 31 years ago. Whether studying for the first time or re-assessing all County programs to identify any policies, practices, or facilities that affect or might affect the opportunity of people with disabilities to participate in the most integrated setting appropriate to their needs, this update to the County's Transition Plan is necessary to ensure ongoing compliance with the ADA.

The development of the updated Transition Plan is a proactive effort by the County to promote inclusive opportunities for people of all abilities. The transparency of the Transition Plan process is essential to giving ownership of the plan to all stakeholders. Inherent to the motto of many in the disability community, "nothing about us, without us," is the understanding that members of society (other than people with disabilities), are not better informed or situated, than people with disabilities themselves to make decisions about or for people with disabilities. The participation by people with disabilities or organizations representing them in the formal adoption of a Transition Plan is essential.

The regulation clearly states: A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. A copy of the transition plan shall be made available for public inspection ([§35.150\(d\)\(1\)](#)).

A transition plan, per title II regulation ([§35.150\(d\)\(3\)](#)) must at minimum:

- i. Identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
- ii. Describe in detail the methods that will be used to make the facilities accessible;
- iii. Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and
- iv. Indicate the official responsible for implementation of the plan.

### 1.3 Audited Buildings/Facilities, Trailheads/Open Spaces, and Fairgrounds

This report covers the County’s buildings/facilities, trailheads/open spaces and the County Fairgrounds. The County will monitor progress of the Transition Plan’s implementation through periodic review of the data. The buildings/facilities, trailhead/open spaces covered by this report are:

#### 1.3.1 Buildings/Facilities

Addiction Recovery Center (ARC)	3470 N. Broadway, Boulder
Addiction Recovery Center (Old Detox)	3180 Airport Rd., Boulder
Agricultural Heritage Center (AHC)	8348 Ute Hwy., Longmont
Alaska Avenue	1288 Alaska Ave., Longmont
Allenspark Waste Transfer Station	14857 Hwy. 7, Allenspark
Altona School House	834 Lefthand Canyon Dr., Boulder
BC Clerk and Recorder	1750 33rd St., Boulder
BC Communications Center, Sheriff	3280 Airport Rd., Boulder
BC Coroner’s Facility	5610 Flatirons Pkwy., Boulder
BC Historic Courthouse	1325 Pearl St., Boulder
BC Historic Courthouse Annex	2045 13th St., Boulder
BC Historic Courthouse East Wing*	2025 14th St., Boulder
BC Historic Courthouse West Wing*	2020 13th St., Boulder
BC Health & Housing Human Services Boulder	3400/3450 N. Broadway, Boulder
BC Jail, Sheriff	3200 Airport Rd., Boulder
BC Justice Center	1777 6th St., Boulder
BC Parks & Open Space Admin & Transportation Complex	5201 St. Vrain Rd., Longmont
BC Public Works & Clinica Building (Old Kaiser Building)	2525 13 <sup>th</sup> St., Boulder
BC Sheriff’s Headquarters (HQ)	5600 Flatirons Pkwy., Boulder
Fire Cache*	6055 Reservoir Rd., Boulder
Goodhue House (Rock Creek Farm)	2009 S. 112th St, Broomfield
Iris Building: (Old Mental Health Center/ 1333 Iris)	1333 Iris Ave., Boulder
Longhorn Road Maintenance Buildings* (Longhorn)	3116 Longhorn Rd., Boulder
Longmont Courthouse	1035 Kimbark, Longmont
Nederland Mining Museum	22 W. 2nd St., Nederland
North Broadway Ballfields (Iris Fields)	3400 N. Broadway, Boulder
Old County Hospital (3460 Broadway)	3460 N. Broadway, Boulder
Recycling Center Complex	1901 E 63rd St., Boulder
St. Vrain Community Hub (Longmont Hub)	515 – 529 Coffman Street, Longmont
Sundquist Building (3480 Broadway)	3482 N. Broadway, Boulder
Walden Ponds*	3897 N. 75th St., Boulder
Walker Ranch	7701 Flagstaff Rd., Boulder

\* No barriers to programs identified

#### 1.3.2 County Fairgrounds

- County Fairgrounds (9595 Nelson Rd., Longmont)
  - Exhibit Building
  - Indoor Arena
  - Outdoor Arena
  - Pole Barn

- Barn A
- Barn B
- Barn C
- Barn D
- Barn E
- Picnic Shelter
- Natural Resources Building
- Clover Building
- Affolter House
- Midway
- Campground and RV Park

### ***1.3.3 Trailheads/Open Spaces***

- AHC
- Anne U. White Trailhead
- Bald Mountain Scenic Area
- Betasso Preserve (East & Main Trailheads)
- Hall Ranch Trailhead (upper lot)
- Betasso Preserve, Bummer's Rock
- Caribou Ranch Open Space
- Coalton Trailhead
- Walden Ponds Wildlife Habitat Trailhead at Cottonwood Marsh
- Dodd Reservoir
- Ethel Harrold Trailhead at Walker Ranch
- Flagg Park Trailhead
- Kerr Community Gardens Harney-Lastoka Open Space
- Heatherwood Trailhead at Walden Ponds
- Corral Trailhead at Heil Valley Ranch
- Main Trailhead at Heil Valley Ranch
- Lagerman Agricultural Preserve
- Lefthand Valley Grange Trailhead
- Legion Park
- Meyer's Gulch Trailhead at Walker Ranch
- Monarch Park Trailhead
- Mudd Lake Trailhead
- Niwot Loop Trailhead
- Pella Crossing Trailhead
- Picture Rock Trailhead at Heil Valley Ranch
- Ron Stewart Preserve at Rabbit Mountain Trailhead
- Stearns Lake Trailhead at Carolyn Holmberg Preserve Rock Creek Farm
- Twin Lakes Trailhead at Eaton Park
- Walker Ranch Loop Trailhead
- Walden Ponds Wildlife Habitat Wally Toevs Trailhead
- Wapiti Trailhead & Lichen Loop Trailhead at Heil Valley Ranch
- Lichen Loop Trail Access at Heil Valley Ranch

### **1.3.3.1 Use of Other Power-driven Mobility Devices**

While it is appropriate for people with limited mobility to choose devices (e.g., golf carts, ATVs, Segways, electric bicycles, etc.) that do not fit the definition, size, shape, or weight of manual or powered wheelchairs and scooters, there definitely are limits to where and when some other power-driven mobility devices (OPMDs) may be safely and reasonably used. The County does not arbitrarily ban every type of powered vehicle that is not a conventional manual or powered wheelchair from its park trails, multi-use paths, pedestrian facilities, or its buildings. However, the County will continue to monitor the need for guidelines or will evaluate, on a case-by-case basis, whether to allow or restrict the use of OPMDs in locations and at events, where or when there are legitimate safety requirements or other practical reasons for limiting OPMD access.

The County, in making decisions regarding the places and times where OPMDs may or may not be used, may be guided by the assessment factors listed in title II regulations, as follows ([§ 35.137\(b\)\(2\)](#)) :

- i. The type, size, weight, dimensions, and speed of the device;
- ii. The facility's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);
- iii. The facility's design and operational characteristics (e.g., whether its service, program, or activity is conducted indoors, its square footage, the density and placement of stationary devices, and the availability of storage for the device, if requested by the user);
- iv. Whether legitimate safety requirements can be established to permit the safe operation of an OPMD in the specific facility;
- v. Whether the use of the other power-driven mobility device creates a substantial risk of serious harm to the immediate environment or natural or cultural resources, or poses a conflict with Federal land management laws and regulations

The County will not ask people using wheelchairs or OPMDs questions about the nature and extent of their disabilities.

The County may ask a person using an OPMD to provide a credible assurance ([§ 35.137\(c\)\(2\)](#)) that the mobility device is required because of the person's disability. County staff will accept the presentation of a valid, State-issued, disability parking placard or card, or other State-issued proof of disability as a credible assurance that the use of the OPMD is for the individual's mobility disability. In lieu of a valid, State-issued disability parking placard or card, or State-issued proof of disability, the County will accept as a credible assurance a verbal representation, not contradicted by observable fact, that the OPMD is being used for a mobility disability. A "valid" disability placard or card is one that is presented by the person to whom it was issued and is otherwise in compliance with the State of issuance's requirements for disability placards or cards.

## **1.4 Limitations of This Analysis**

During the collection of data in the County's facilities, information regarding the dates and location of new construction and alterations since January 26, 1992, is available to Boulder County Building Services, however, analysis of construction and alteration dates was outside the scope of MTC's services. This information may be key to determining whether some technical findings might be excluded from remediation requirements or qualify for safe harbor provisions, based on construction/alteration dates.

New construction and alterations to existing facilities completed since January 26, 1992, regardless of program access evaluation, must comply with the accessible design standards in effect at the time of construction. Construction and alterations completed since January 26, 1992, which were not consistent with the accessible design standards in force at the time, must be retrofitted to the maximum extent feasible to meet the current ADA Standards.

In determining the site or location of a facility – in essence the location of a program – public entities are prohibited from *making selections that have the effect of excluding individuals with disabilities from those facilities, denying them the benefits of those facilities, or otherwise subjecting them to discrimination* (§ [35.130](#)(b)(4)). For any services, programs, or activities which have been relocated and created in existing facilities, the County should have ensured that there were no barriers or potential barriers prior to making decisions to use such facilities.

#### **1.4.1 Barriers in New Construction and Alterations**

The County, per the consultant’s recommendation and DOJ emphasis in title II settlement agreements, will recognize barriers in new construction or alterations to existing facilities, as the next highest priority. In its October 2000, Project Civic Access settlement agreement with Boulder County, DOJ addressed the title II requirement for the County “to ensure that facilities for which construction or alteration was begun after January 26, 1992, are readily accessible to and usable by people with disabilities, in accordance with 1) the Department’s title II regulation and 2) the Standards or UFAS, 28 C.F.R. § 35.151.”<sup>1</sup> Obviously, listing of these barriers was not considered in the original (i.e., 1992) requirements for transition plans. Construction completed after January 26, 1992, and prior to March 15, 2012, consistent with (to the *maximum extent feasible*) either the 1991 ADA Standards or the Uniform Federal Accessibility Standards, has safe harbor.

Nevertheless, despite all good intentions to the contrary, existing facilities have been altered and new facilities built which do not comply with any of the referenced standards. These *post-ADA* barriers must be included in the County’s current Transition Plan. Regardless of whether these deficiencies present current or imminent barriers to program access, a public entity is required to structurally correct these barriers. New construction or alterations to existing facilities, which do not comply with any of the referenced standards, are separate violations of the ADA regulations.

#### **1.4.2 Fundamental Alteration**

Regarding structural barrier removal in existing County facilities, title II regulations do not require the County to take any action which it can demonstrate would cause a fundamental alteration in the nature of a service, program, or activity delivered at such facilities. In those rare circumstances where County staff believe that a proposed action would fundamentally alter the service, program, or activity, the County has the burden of proving that compliance with [§ 35.150](#)(a) of the Part 35 regulations would cause such a fundamental alteration. The decision that compliance would cause such an alteration must be made by the County Administrator or their designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would cause such an alteration the County must take any other action that would not result in such an alteration but would nevertheless ensure that individuals with disabilities receive County benefits or services.

#### **1.4.3 Historic properties**

Title II regulations do not require a public entity to take any action that would threaten or destroy the historic significance of an historic property. At this time, the County has identified the Downtown Boulder County Courthouse, the Courthouse Annex, McIntosh Barn, Walker Ranch, Goodhue House, Altona Schoolhouse, and the Old County Hospital (3400 Broadway) as historical properties.

When any County properties are listed or otherwise designated as historic properties, the County will evaluate any deficient conditions to determine if removal would result in a threat to or destruction of historic significance. The County will then determine whether any present or potential barriers to program access can be overcome through methods or means other than structural barrier removal. The County will give priority to methods that provide

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<sup>1</sup> U.S. Department of Justice, *Settlement Agreement between the United States and Boulder County, Colorado, DOJ Complaint Number 204-13-244*, at <https://www.ada.gov/boulderc.htm>, accessed September 10, 2021.



physical access to individuals with disabilities. Where it is not possible to provide access to programs without damaging or removing features of historical significance, the County will find an alternative venue or means of providing access to the program viewed in its entirety.

When the historical value of a property is, in essence, the program – i.e., the facility has historical value which attracts visitors and tours – the County will take measures to ensure that people with disabilities have an opportunity to enjoy the benefits of the program through means other than physical access. The County can assign persons to guide individuals with disabilities into or through portions of historic properties that cannot otherwise be made accessible. For example, virtual tours offered through multi-media presentations or online streaming to depict those portions of an historic property that cannot otherwise be made accessible and presentation of artifacts in an accessible space at the facility can provide a similar experience for people who are not able to physically tour the facility.

#### **1.4.4 Undue Financial and Administrative Burden**

When considering structural barrier removal in existing County facilities, title II regulations do not require the County to take any action that it can demonstrate would cause undue financial and administrative burdens. In those circumstances where County personnel believe that a proposed action would result in undue financial and administrative burdens, the County must prove that compliance with requirements for removal of barriers in existing facilities (see [§ 35.150\(a\)](#)) would result in such burdens

Ultimately, the County Administrator or their designee will make the decision that compliance with title II regulations would result in undue financial and administrative burdens, when all resources available for use in the funding and operation of the service, program, or activity, have been considered. The County Administrator or their designee must provide a written statement of the reasons for the decision. The County will regardless of such decisions, take any other action that would not result in undue financial and administrative burdens to ensure that qualified people of all abilities can receive County benefits or services.

#### **1.4.5 Safe Harbor, New Construction, and Alterations**

Safe harbor refers to:

*Elements that have not been altered in existing facilities on or after March 15, 2012, and that comply with the corresponding technical and scoping specifications for those elements in either the 1991 Standards or in the Uniform Federal Accessibility Standards (UFAS), Appendix A to 41 CFR part 101–19.6 (July 1, 2002, ed.), 49 FR 31528, app. A (Aug. 7, 1984) are not required to be modified in order to comply with the requirements set forth in the 2010 Standards (§ [35.150\(b\)\(2\)\(i\)](#)).*

Identification of elements having safe harbor is not possible, in the absence of specific, detailed information as to the dates, locations, and scope of construction and alterations to facilities. Typically, there are a limited number of elements having *as-is* conditions which are consistent with previous standards which would not also be compliant with the 2010 ADA Standards. Most of the elements, for which safe harbor may be applied, have relatively low mitigation difficulty. Among the features that may qualify for safe harbor are the following:

- Surfaces of doors up to ten inches that are not smooth
- Water closets centerlines between 18 and 18.5 inches from the near wall
- Single wheelchair accessible (i.e., low) drinking fountains
- Operable parts between 48 and 54 inches or between 9 and 15 inches

The County must determine when safe harbor applies. To claim safe harbor for an element the County must have evidence that the element in question was built/alterd prior to March 15, 2012. Safe harbor *does not apply to those elements in existing facilities that are subject to supplemental requirements (i.e., elements for which there are neither technical nor scoping specifications in the 1991 Standards)* (§ [35.150\(b\)\(2\)\(ii\)](#)).

#### **1.4.5.1 Elements for Which Safe Harbor Does Not Apply**

The safe harbor provision does not apply to those elements in existing facilities which are subject to new scoping and technical provisions in the (2010) ADA Standards. The following elements are not eligible for safe harbor:

- Residential facilities dwelling units, sections [233](#) and [809](#)
- Amusement rides, sections [234](#) and [1002](#); [206.2.9](#); [216.12](#)
- Recreational boating facilities, sections [235](#) and [1003](#); [206.2.10](#)
- Exercise machines and equipment, sections [236](#) and [1004](#); [206.2.13](#)
- Fishing piers and platforms, sections [237](#) and [1005](#); [206.2.14](#)
- Golf facilities, sections [238](#) and [1006](#); [206.2.15](#)
- Miniature golf facilities, sections [239](#) and [1007](#); [206.2.16](#)
- Play areas, sections [240](#) and [1008](#); [206.2.17](#)
- Saunas and steam rooms, sections [241](#) and [612](#)
- Swimming pools, wading pools, and spas, sections [242](#) and [1009](#)
- Shooting facilities with firing positions, sections [243](#) and [1010](#)
- Team or player seating, section [221.2.1.4](#)
- Accessible route to bowling lanes, section. [206.2.11](#)
- Accessible route in court sports facilities, section [206.2.12](#)

#### **1.4.6 Conventional Industry Tolerances**

The ADA Standards permit the application of conventional industry tolerances, but no authority is named for defining them. Determining if an element's condition falls into a conventional industry tolerance is up to the entity and its design professionals. Once a set of tolerances are adopted by the County, the application of those tolerances may allow for certain barriers to stand. The below sections and advisory are taken directly from the ADA Standards for further guidance.

**[104.1](#) Dimensions.** *Dimensions that are not stated as "maximum" or "minimum" are absolute.*

**104.1.1 Construction and Manufacturing Tolerances.** *All dimensions are subject to conventional industry tolerances except where the requirement is stated as a range with specific minimum and maximum end points.*

**Advisory 104.1.1 Construction and Manufacturing Tolerances.** *Conventional industry tolerances recognized by this provision include those for field conditions and those that may be a necessary consequence of a particular manufacturing process. Recognized tolerances are not intended to apply to design work.*

*It is good practice when specifying dimensions to avoid specifying a tolerance where dimensions are absolute. For example, if this document requires "1 inches," avoid specifying "1 inches plus or minus X inches."*

*Where the requirement states a specified range, such as in Section 609.4 where grab bars must be installed between 33 inches and 36 inches above the floor, the range provides an adequate tolerance and therefore no tolerance outside of the range at either end point is permitted.*

*Where a requirement is a minimum or a maximum dimension that does not have two specific minimum and maximum end points, tolerances may apply. Where an element is to be installed*



*at the minimum or maximum permitted dimension, such as "15 inches minimum" or "5 pounds maximum", it would not be good practice to specify "5 pounds (plus X pounds) or 15 inches (minus X inches)." Rather, it would be good practice to specify a dimension less than the required maximum (or more than the required minimum) by the amount of the expected field or manufacturing tolerance and not to state any tolerance in conjunction with the specified dimension.*

*Specifying dimensions in design in the manner described above will better ensure that facilities and elements accomplish the level of accessibility intended by these requirements. It will also more often produce an end result of strict and literal compliance with the stated requirements and eliminate enforcement difficulties and issues that might otherwise arise. Information on specific tolerances may be available from industry or trade organizations, code groups and building officials, and published references.*

The County will refer to Ken Ballast's [Handbook of Construction Tolerances](#), 2nd Edition (March 2007), as an excellent guide for determining acceptable construction tolerances. Ballast also researched and wrote "[Dimensional Tolerances in Construction and for Surface Accessibility](#)" (2011), for the U.S. Access Board. Tolerances may be acceptable for construction which existed prior to the ADA but design for new construction should allow for reasonable tolerances of standard craftsmanship. For example, if a tolerance of +0.5 percent is accepted as a conventional industry tolerance for the slope on a concrete surface, then running slopes should be designed to 7.8 percent maximum and cross slopes should be designed to 1.5 percent maximum to ensure that finished concrete within the tolerance, will be consistent with accessibility requirements.

#### ***1.4.7 Path of Travel***

At times, alterations can also trigger the "path of travel" provision of the ADA. This provision requires that any alterations, after January 26<sup>th</sup>, 1992, which affect or could affect the usability or access to a primary function area of a facility must also include addressing accessibility deficiencies along the path of travel to the altered area. Examples of items included in this "path of travel", per 28 C.F.R. § [35.151](#) (4), are: walks and sidewalks, curb ramps, parking areas, corridors and restrooms. A primary function of a facility is a major activity for which the facility is intended. Examples include: the dining area of a cafeteria, the meeting rooms in a conference center, as well as offices and other work areas in which the activities of the public entity using the facility are carried out. Alterations to comply with the ADA along the path of travel are only required to the level of disproportionally. Disproportionally is reached when the cost of alterations to path of travel elements exceeds 20 percent of the cost of the alteration to the primary function area.

The County will examine any alterations undertaken by the County, built after January 26<sup>th</sup>, 1992, to owned facilities which may have triggered the "path of travel" provision. Alterations required under this provision, which were not completed, are required to be executed regardless of program access implications. It is important to note that alterations undertaken for the sole purpose of improving or meeting accessibility requirements of the ADA do not trigger the "path of travel" requirement.

The County's ADA consultant, was not able to determine independently whether any findings identified by this audit of the County's facilities existed before January 26, 1992. Nor was the consultant able to determine independently where findings which existed at the time of an alteration, since that date, would have triggered the *path of travel* requirement. Therefore, the County will investigate the dates of alterations in its facilities which may have triggered removal of findings even when those findings did not limit or prevent access to its services, programs, or activities. These conditions might exist in employee only or employee common areas of facilities which have been renovated since January 26, 1992. The County will schedule removal of findings which can be remedied with little difficulty or expense in the Transition Plan, regardless of whether remedies would have been within the scope of previous

alterations. The priority of these findings, though lower than the removal of barriers to program access, is not immaterial.

## 1.5 Public Outreach

The County has provided an opportunity to interested persons, including people with disabilities or organizations representing people with disabilities, to participate in the development of the Transition Plan by submitting comments. A copy of the Transition Plan has been made available for public inspection. The County held one public comment meeting, which was conducted online/virtually (via Zoom, due to ongoing pandemic restrictions) on Tuesday, November 9, 2021 at 6:00 p.m. The meeting was recorded and made available for on-demand viewing by the public on the Boulder County website. In addition, opportunities to read and comment on the Transition Plan have been offered online through Boulder County website, through mail, email, and voicemail.

A survey requesting public input on the draft transition plan was made available to the public in both English and Spanish versions. The survey could be accessed through the website, or by request through mail, email, and voicemail.

### 1.5.1 Efforts to Solicit Public Comments

The County made a comprehensive effort to provide an opportunity for public comments, reaching out through many channels of communication.

- News release on November 2, 2021
  - Sent to 8,090 recipients via multiple county email listservs (BC News, Public Works News, Mobility 4 All)
  - 30% of the emails sent were opened by recipients – 2,427 opens
  - News release was posted to county Facebook, Twitter, and Nextdoor social media feeds on November 2, 2021
    - Reposted on Thursday, November 18, 2021
- Public Meeting notice was published on county calendar on October 5, 2021
- Meeting notice was published on Boulder County’s project webpage on September 29, 2021
- News article written by Annie Mehl as published in the Boulder Daily Camera and Longmont Times Call on Wednesday, November 3, 2021 with a follow-up article in both papers on Wednesday, November 9, 2021
  - <https://www.dailycamera.com/2021/11/09/boulder-county-holds-virtual-planning-session-to-discuss-needed-updates-as-part-of-ada-transition-plan/>
- Public Meeting was published by [Patch.com](https://www.patch.com) on November 2, 2021
- The County hosted a Virtual Public Meeting that was attended by six (6) people
- Additional Boulder County ADA Transition Plan Presentations were made to the Boulder Parks & Open Space Advisory Committee (POSAC) and Mobility 4 All.
  - POSAC presentation on August 28, 2021
  - Mobility 4 All presentation on September 13, 2021

### ***1.5.2 Boulder County Public Outreach Survey***



The survey for online public comments (at <https://www.bouldercounty.org/transportation/plans-and-projects/ada-transition-plan/>) was open from Monday, November 1, 2021 through Sunday, November 21, 2021. The County received three (3) public responses to the Transition Plan. The survey accessed through the County’s ADA Transition Plan webpage on their website and was available in both English and Spanish. Two (2) responses came from individuals who identified as community members with a disability and one (1) responded that they are a community member who lives with, cares for, or interacts

with a family member or friend with a disability. None of the respondents indicated that they had a concern with the draft Transition Plan. See Appendix H, which summarizes all responses and provides all comments from the public. Personal and identifying information have been redacted.

### ***1.5.3 Zoom Meeting, November 9, 2021***

The online meeting was offered to provide an opportunity for members of the public to participate in an interactive presentation on the Transition Plan’s purpose, development, general findings, and schedule for implementation. The PowerPoint presentation by Julia Larsen, County ADA Coordinator and Dana Barton, MTC Director, was recorded and is available to the public. PowerPoint slides are provided in Appendix I.

### ***1.5.3 Parks and Open Space Advisory Committee, August 28, 2021***

In addition to the Public Meeting on November 9, 2021, Boulder County’s consultant made a presentation to the Parks and Open Space Advisory Committee (POSAC) on August 28, 2021. Information about the Self-evaluation and Transition Plan process, findings, and proposed actions were shared during this virtual meeting.

### ***1.5.5 Ongoing Comment on the Transition Plan and ADA Compliance***

The public can comment, complain, or request actions to ensure the City’s ongoing ADA compliance, by contacting the County’s ADA Coordinator, at any time. Julia Larsen, Human Resources Director, (who serves as the County’s ADA Coordinator) will bear the primary responsibility for implementation of the ADA Transition Plan. The County realizes it is also obligated to maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the ADA. This does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs ([§ 35.133](#)).

## 2.0 PROGRAM ACCESS EVALUATION AND THE TRANSITION PLAN

When considering the number of physical deficiencies discovered in the County's facilities, it is critical to be aware that all barriers are not created equal. Based on the regulatory requirements, the first barriers that must be identified in the Self-evaluation and Transition Plan processes are those that prevent access to services, programs, and activities, when viewed in their entirety. Next, those findings that were created by new construction and/or alterations must be identified. Finally, the County is aware of those findings which exist, and have existed since prior to the ADA, but currently present no barrier to program access. There is no current requirement for their removal. Various events may trigger a future need to remedy these conditions.

The objective of this document is not necessarily to prescribe, for each finding listed, the precise means by which the County will mitigate each barrier. Rather, the objective here is to identify potential barriers and develop a process for deciding when and if a given barrier can be mitigated through methods or means other than an architectural remedy. Relocating programs/offering them at alternate accessible facilities, delivering services, offering virtual access, or giving assistance to circumvent barriers are some of the other methods and means that may make a program accessible without removing all physical barriers to access.

During the current pandemic, direct face-to-face access to the County's programs and services has been extremely limited in response to statewide public health orders. While this may have decreased the urgency to remove architectural barriers, the simultaneous increase in demand for access to virtual programs and services has highlighted the parallel requirement to make websites and other means of digital communication and interaction accessible to qualified people with disabilities, including, but not limited to, people who are deaf or blind.

The regulations do not necessarily require a public entity to make each of its facilities accessible. Public entities must make each of their services, programs, and activities, *when viewed in their entirety*, accessible to and usable by qualified individuals of all abilities, including those individuals who use wheelchairs or other mobility devices. The DOJ's [2010 Guidance and Section-by-Section Analysis](#) of the regulations, while providing no mathematical or formulaic definition of *viewed in their entirety*, does provide the following, non-exhaustive list of factors to apply in deciding whether programs, offered at more than one location, are accessible, when viewed in their entirety:

- size of the public entity
- the particular program features and amenities offered at each site
- the geographical distance between sites
- the travel times to the sites
- the number of sites
- availability of public transportation to the sites

Simply offering a service, program, or activity at an alternate location may not necessarily make that service, program, or activity accessible when viewed in its entirety.

### 2.1 Barrier Removal Priorities in Buildings/Facilities, Trailheads/Open Spaces, and Fairgrounds

The process for prioritizing barrier removal to achieve program access is multi-layered. First, for all findings of conditions which are not consistent with the technical provisions of the ADA Standards, the County reviewed the conditions in context to determine whether each finding would or could limit or prevent access to a service, program, or activity. Where a noncompliant condition is not a barrier to program access, its removal is not prioritized in the Transition Plan.

Assessment of 5,201 findings at County buildings/facilities to determine the need for program access removed 1,904 findings in locations where findings do not prevent or potentially prevent or limit program (public) access.

The remaining 3,297 findings are actual or potential barriers to program (public) access, with varying degrees of priority for removal.

At trailheads/open spaces unrestricted public access means that every finding is or has the potential to be a barrier to program (public) access. Similarly, all buildings at the Fairgrounds which have findings which prevent or might prevent or limit access to services, programs, or activities is or has the potential to be a barrier to program (public) access.

### **2.1.1 Facility/Building Priority**

The fact that a given facility is regarded as an employee-only facility, removes the priority for all findings in that facility. On this basis, the County does not consider the findings at the Fire Cache, Longhorn, Walden Ponds Wildlife Habitat/Wally Toevs/at Cottonwood Marsh/Volunteer Center (NVC), and East Wing/Historic Courthouse, and West Wing/Historic Courthouse buildings/facilities to be barriers to program access.

The priority for other County facilities has been ranked based on factors including the amount of program access or public presence anticipated for each, existing renovation/capital improvement plans, and the overall degree of mitigation difficulty which can cause practical delays in scheduling. The highest priority facilities have been ranked as follows:

- Justice Center, Boulder
- Longmont Courts
- Clerk and Recorder 33<sup>rd</sup> Street
- St. Vrain Community Hub, Longmont
- Downtown Historic Courthouse
- Courthouse Annex, Boulder

See Appendix [A](#) and summary schedule, section [4.1](#), below.

### **2.1.1.1 Concentric Circles of Intrinsic Priority**

Intrinsic priority for accessibility begins at the perimeter of a facility, including site arrival points (accessible parking, public sidewalks, and transit stops), accessible routes to accessible entrances, and the required number of accessible public entrances to a facility. The next ring of the concentric circles includes the areas of facilities – the primary function areas – where services, programs, and activities (e.g., reception counter in the lobby of County Courthouse or a trailhead at an open space) can be accessed. The next ring covers public restrooms, which with some exceptions (e.g., restrooms at trailheads), are not primary function areas of facilities. Finally, other areas and elements of facilities, such as drinking fountains or employee common use spaces (e.g., employee-only restrooms and break rooms) have the least priority, because these areas are least-used for delivery of programs.

### **2.1.2 Trailheads/Open Space and Fairgrounds**

Trailheads/Open Spaces and the Fairgrounds are presumed to be facilities/locations specifically intended to provide services, programs, or activities directly to the public. Participation in recreation programs and activities essentially requires access to the facilities serving those programs. Based on various factors, including the volume of public/program demand and degree of deficiencies (based on the number of barriers and mitigation difficulty), the highest priority trailheads/open space have been ranked as follows:

- Stearns Lake Trailhead at Carolyn Holmberg Preserve
- Mud Lake Trailhead
- Pella Crossing Trailhead
- Walden Ponds Wildlife Habitat Wally Toevs Trailhead
- Betasso Preserve

All Fairgrounds locations are projected to be addressed in 1-7 years with the assumption that upgrades will be made during the Fairgrounds Master Plan Implementation.

See Appendices [A](#) and [B](#), and summary schedule, sections [4.2](#) and [4.3](#) below.

## 2.2 Practical Approach to Priority

In practice, major public works projects typically require extended lead times to allow for mandated procurement processes, possible need for acquisition of property, interruption of services when renovating public spaces, and the availability of various resources including, but not limited to, funding needed to complete such projects. Because the County must factor these lead times into major projects, regardless of perceived priorities, it may take several years to schedule these projects in the Transition Plan. Logically, projects which have already been scheduled in the County's Capital Improvement Plan (CIP) will take priority and may be expanded to include Transition Plan findings which fall within the scope of planned and budgeted CIP projects.

### 2.2.1 Intrinsic Priority

The concept of intrinsic priority presumed in the approach to prioritization used in the Transition Plan is intended to provide a practical model consistent with the title II of the ADA focus on program accessibility. The following priorities for structural barrier removal in title III of the ADA also inform the process:

*Priorities. A public accommodation is urged to take measures to comply with the barrier removal requirements of this section in accordance with the following order of priorities.*

*(1) First, a public accommodation should take measures to provide access to a place of public accommodation from public sidewalks, parking, or public transportation. These measures include, for example, installing an entrance ramp, widening entrances, and providing accessible parking spaces.*

*(2) Second, a public accommodation should take measures to provide access to those areas of a place of public accommodation where goods and services are made available to the public. These measures include, for example, adjusting the layout of display racks, rearranging tables, providing Brailled and raised character signage, widening doors, providing visual alarms, and installing ramps.*

*(3) Third, a public accommodation should take measures to provide access to restroom facilities. These measures include, for example, removal of obstructing furniture or vending machines, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls, and installation of grab bars.*

*(4) Fourth, a public accommodation should take any other measures necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation. (§ [36.304\(c\)](#))*

In the data collected for sites and facilities in the Transition Plan, the four priorities described above have been labelled *1-Entry*, *2-Services*, *3-Restrooms*, and *4-Other*. Logically, barriers to access at site arrival points (see ADA Standards [206.2.1](#)), such as parking lots or the sidewalks which lead to building entrances, prevent access to the facility as a whole and any services, programs or activities provided at the facility. In addition, from a risk management perspective, such barriers are least likely to be mitigated by County staff and most likely to result in complaints. Mitigation of such barriers will be done eventually, however, it is not feasible to have County staff present, constantly, to ensure that these barriers will not impede access for some people with disabilities.



### 2.2.2 Mitigation Difficulty

The Transition Plan applies mitigation difficulty as one of the key factors in the determination of the priority to remediate barriers. Mitigation difficulty refers to the rough order of magnitude necessary to remove a barrier in an existing facility. While potential design and construction costs must be considered in the estimation of mitigation difficulty, other factors, such as the disruption of services during facility renovations, potential infeasibility of removing a particular barrier (e.g., enlarging a restroom might require removing a load bearing wall), and the typical lead time necessary when considering competitive bids and construction operations, may have more weight in labelling the mitigation difficulty of a particular barrier as *high*. When walls must be moved or parking lots regraded and repaved to remove barriers, the County will be prudent in choosing the most cost-effective approach. In some cases, moving a program to another facility may be the best choice. The County will make these decisions as soon as possible to ensure program access. However, these decisions should not be made before all relevant options have been thoroughly explored.

Regardless of the County’s commitment to inclusivity and ADA compliance, budgetary constraints present a reality that the County must face in choosing which barriers will be removed first and which will be scheduled for later remediation. By assessing the immediate nature of each barrier, as well as the difficulty removing it will entail, the County plans to remove the highest priority barriers as soon as the necessary financial resources become available. The caveat to this approach is the responsiveness necessary, when input (i.e., comment, request, or complaint) from a qualified person with a disability identifies an immediate barrier to program access.

### 2.3 County Buildings/Facilities

**Table 1** summarizes the numbers and percentages of barriers in the County’s buildings/facilities, by degree of intrinsic priority and estimated mitigation difficulty. The County will give priority to removal of barriers in the cells shaded orange (the *orange zone*), to the upper left. The County will reasonably address barriers located in buildings (see section 2.1.1 above) most frequently accessed by the public that fall within the *orange zone* of **Table 1**. Most (59 percent) of these are barriers which will require minimal effort or expense to remedy. Many can be/have been eliminated in-house by maintenance staff.

Findings in the cells shaded light blue (the *blue zone*), to the lower right, are those that can wait the longest.

Intrinsic Priority	Mitigation Difficulty			Total	
	3-Low	2-Moderate	1-High		
1-Entry	310	55	381	746	22.6%
2-Services	819	190	180	1,189	36.1%
3-Restrooms	795	337	157	1,289	39.1%
4-Other	22	22	29	73	2.2%
<b>Total</b>	1,946	604	747	3,297	100%
	59.0%	18.3%	22.7%	100%	
Color Zone Totals	2,169	359	718	51	3,297
Color Zone Percentages	65.8%	10.9%	21.8%	1.5%	100%



### 2.3.1 Typical Barriers Found in County Buildings/Facilities

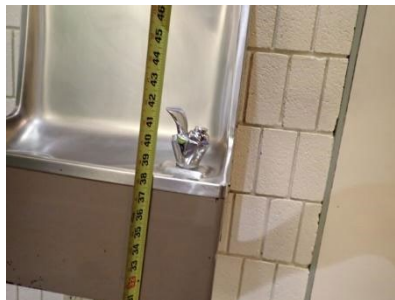
In the sections below are typical barriers identified in the County’s buildings, during the onsite facility assessments. The difficulty and cost to remedy individual barriers varies from simple, low-cost, maintenance and repairs, to extensive redesign and renovation of publicly accessed spaces. Re-stripping parking spaces or adjusting door-opening forces and closing speeds will require minimal expense or difficulty. Moving and reframing a door to provide sufficient maneuvering clearance or realigning a water closet to correct near wall clearance to the required 16-18 inches can be costly, difficult, and even technically infeasible if, for example, the alteration would affect a load-bearing wall. For this reason, the typical barriers are separated, by rough order of magnitude, ranging from those where mitigation difficulty is expected to be low to those where mitigation difficulty is expected to be high.

Usually, those barriers expected to have high mitigation difficulty will require long-term process to be accomplished. The County may need to hire architects or engineers to determine the best structural solutions. Because of cost, the County must formally solicit proposals and the funding needed for these projects may not be available for several budget cycles. While the County recognizes these concerns, to make this plan viable requires the County to begin the processes for achieving removal of these high difficulty barriers as soon as possible, even though actual structural alterations might be years down the road.

#### 2.3.1.1 Typical Low Mitigation Difficulty Barriers

**Typical Observations:** Protrusions throughout facilities

**2010 ADA Standards Reference:** 307

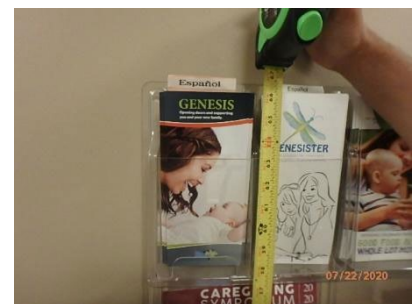


**Typical Observation:** Door opening force is more than 5 pounds

**2010 ADA Standards Reference:** 404.2.9

**Typical Observation:** Operable parts are not located within reach range

**2010 ADA Standards Reference:** 308





**Typical Observation:** Toilet paper dispenser is mounted in the wrong location

**2010 ADA Standards Reference:** 604.7



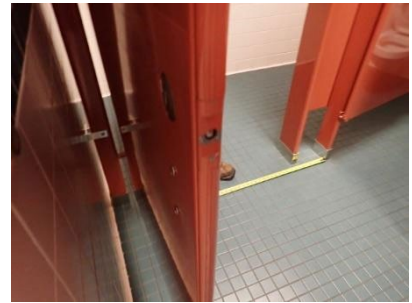
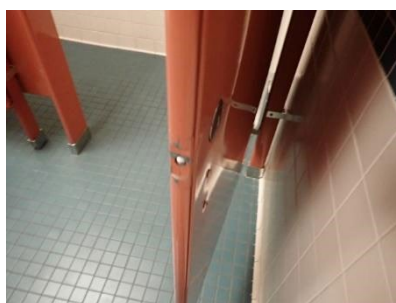
**Typical Observation:** Mirrors are mounted too high

**2010 ADA Standards Reference:** 603.3



**Typical Observation:** Toilet compartment door does not have a pull handle on both sides of the door

**2010 ADA Standards Reference:** 604.8.1.2

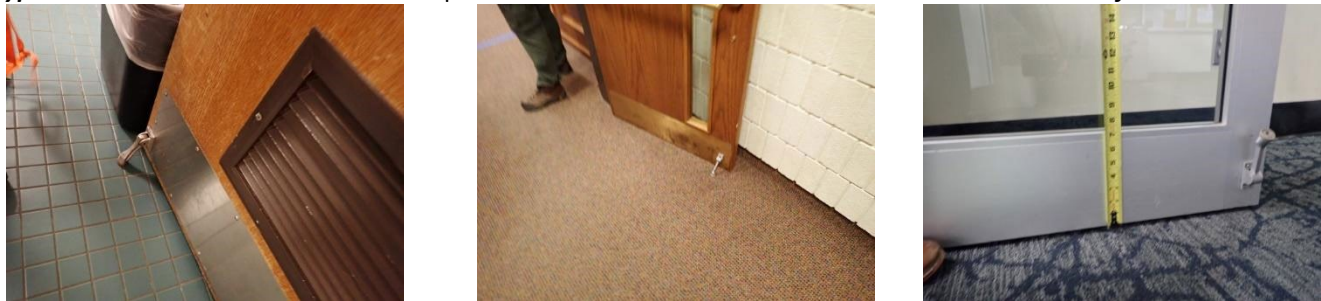


**Typical Observation:** Toilet seat too low/too high.

**2010 ADA Standards Reference:** 604.4



**Typical Observation:** Smooth surface not provided bottom 10 inches of door. **2010 ADA Standards Reference:** 404.2.10



**Typical Observation:** Grab bar position is not compliant

**2010 ADA Standards Reference:** 604.5

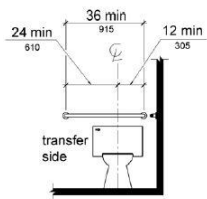


Figure 604.5.2 Rear Wall Grab Bar at Water Closets

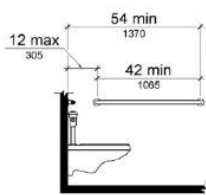
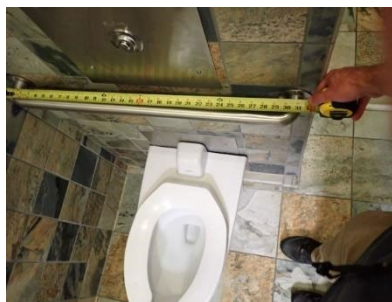


Figure 604.5.1 Side Wall Grab Bar at Water Closets



### 2.3.1.2 Typical Moderate Mitigation Difficulty Barriers

**Typical Observation:** Lavatory height and depth of knee clearance are not compliant

**2010 ADA Standards Reference:** 606



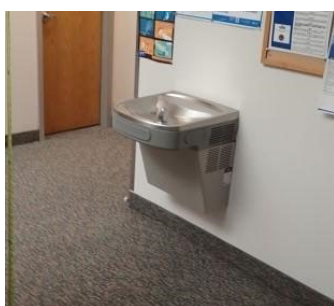
**Typical Observation:** Toilet sidewall to centerline is not compliant

**2010 ADA Standards Reference:** 604.2



**Typical Observation:** High and low drinking fountain is not provided

**2010 ADA Standards Reference:** 211.2



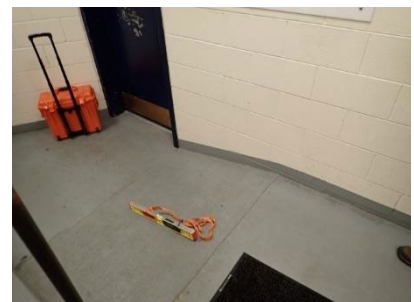


**Typical Observation:** Flush controls are located on the wrong/narrow side of the toilet **2010 ADA Standards 604.6**



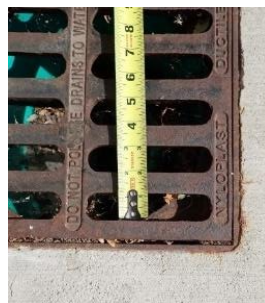
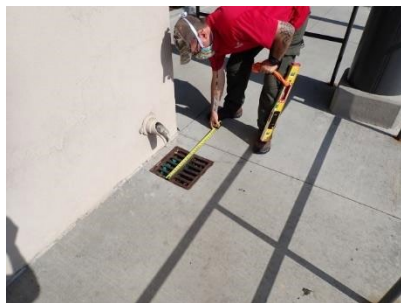
**Typical Observation:** Ramps missing handrails

**2010 ADA Standards Reference:** 405.8, 505



**Typical Observation:** Openings in floor/ground surfaces allow passage of a sphere more than 1/2-inch diameter

**2010 ADA Standards Reference:** 302.3



### 2.3.1.3 Typical High Mitigation Difficulty Barriers

**Typical Observation:** Door maneuvering clearance is not compliant

**2010 ADA Standards Reference:** 404.2.4



**Typical Observation:** Inaccessible shower compartments

**2010 ADA Standards Reference:** 213.3.6, 608& 610



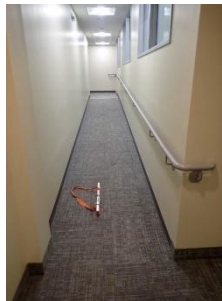
**Typical Observation:** Inaccessible restrooms.

**2010 ADA Standards Reference:** 213.2, 604



**Typical Observation:** Ramps with slopes too steep.

**2010 ADA Standards Reference:** 405.2





## 2.4 County Trailheads/Open Spaces

**Table 2** summarizes the numbers and percentages of barriers in the County’s trailheads/open spaces, by degree of intrinsic priority and estimated mitigation difficulty. The County will give priority to removal of barriers in the cells shaded orange (the orange zone), to the upper left. Barriers in the cells shaded light blue (the blue zone), to the lower right, are those that can wait the longest.

Intrinsic Priority	Mitigation Difficulty			Total	
	3-Low	2-Moderate	1-High		
1-Entry	286	14	159	459	50.5%
2-Services	54	15	81	150	16.5%
3-Restrooms	255	16	29	300	33.0%
4-Other	0	0	0	0	0.0%
<b>Total</b>	595	45	269	909	100%
	65.5%	4.9%	29.6%	100%	
Color Zone Totals	624	16	269	0	909
Color Zone Percentages	68.6%	1.8%	29.6%	0.0%	100%

 First Priority    
  Second Priority    
  Third Priority    
  Fourth Priority

### 2.4.1 Typical Barriers Found in County Trailheads/Open Spaces

Barriers typical in outdoor recreation facilities, technically are not significantly different than those found in other County facilities. However, barriers in gravel parking lots, routes to picnic tables, and portable restrooms, typically, are not found inside County buildings. Some typical barriers in these areas will be displayed below in section [2.5.1.1](#). As participation in recreation programs and activities essentially requires access to the facilities serving those programs, almost all noncompliant conditions identified in these facilities must be removed to ensure program accessibility. The exception may be where access at other venues can achieve access to a program, when viewed in its entirety.

The Department of Justice (DOJ) in its guidance to the title II regulations writes that factors to be considered in whether a program is accessible, when viewed in its entirety, include:

- the size of the public entity
- the particular program features and amenities offered at each site
- the geographical distance between sites
- the travel times to the sites
- the number of sites
- availability of public transportation to the sites

The above list of factors is not exhaustive. When deciding on methods for meeting the *viewed in its entirety* requirement, the County must give priority to methods that offer services, programs, and activities in the *most integrated setting appropriate to the needs of people with disabilities*. DOJ guidance continues:

*As a result, in cases where the sites are widely dispersed with difficult travel access and where the program features offered vary widely between sites, program accessibility will require a larger number of facilities to be accessible... to ensure program accessibility than where multiple sites are... in a concentrated area with easy travel access and uniformity in program offerings.*

### 2.4.1.1 Typical Low Mitigation Difficulty Barriers

**Typical Observation:** No designated accessible parking spaces/access aisles are marked/signed

**2010 ADA Standards Reference:** 208, 502.3.3, 502.6



**Typical Observation:** Protrusions throughout facilities

**2010 ADA Standards Reference:** 307





**Typical Observation:** Operable parts are mounted above reach range, reach range is obstructed, or clear ground space is not provided

**2010 ADA Standards Reference:** 308, 309



**Typical Observation:** Fixed doorstop obstructs the smooth surface of the bottom 10 inches on the push side of the door

**2010 ADA Standards Reference:** 404.2.10



**Typical Observation:** No trailhead signs which include trail length, surface type, **ABAAS/ODA Reference:** 1017.10 typical & minimum tread width, & typical & maximum running & cross slopes



**Typical Observation:** Grab bar position is not compliant

**2010 ADA Standards Reference:** 604.5

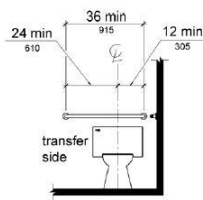


Figure 604.5.2 Rear Wall Grab Bar at Water Closets

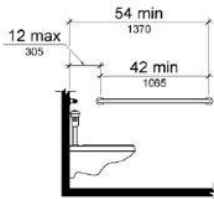
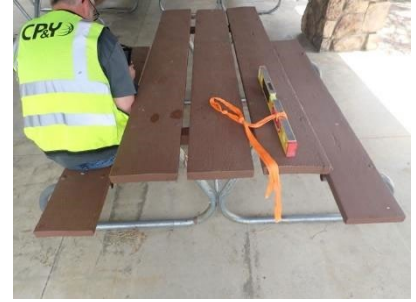


Figure 604.5.1 Side Wall Grab Bar at Water Closets

**Typical Observation:** Wheelchair spaces not provided at picnic tables

**ABAAS/ODA 1011.4.2**



**2.4.1.2 Typical Moderate Difficulty Barriers**

**Typical Observation:** Vertical changes in level greater than ½-inch beveled

**2010 ADA Standards Reference:** 303.2





**Typical Observation:** Portable toilet compartment too narrow

**2010 ADA Standards Reference:** 604.8.1.1



**Typical Observation:** Fire ring or grill (cooking surfaces) too high

**ABAAS/ODA Reference:** [1011.5.2](#).



### 2.4.1.3 Typical High Mitigation Barriers

**Typical Observation:** Gravel surface of designated accessible parking spaces is not stable, firm, and slip resistant

**2010 ADA Standards Reference** 502.4, 302.1



**Typical Observation:** Maximum slope of designated accessible parking spaces is too steep

**2010 ADA Standards Reference:** 502.4





**Typical Observation:** Walking surfaces with running and cross slopes too steep **2010 ADA Standards Reference:** 403.3



## 2.5 County Fairgrounds

**Table 3** shows the numbers and percentages of barriers by degree of intrinsic priority and estimated mitigation difficulty. Barriers in the cells shaded orange (the orange zone), to the upper left, are those that the County will address first. Barriers in the cells shaded light blue (the blue zone), to the lower right, are those that can wait the longest.

Intrinsic Priority	Mitigation Difficulty			Total	
	3-Low	2-Moderate	1-High		
1-Entry	45	60	26	131	20.6%
2-Services	76	42	12	130	20.4%
3-Restrooms	259	67	27	353	55.5%
4-Other	17	5	0	22	3.5%
<b>Total</b>	<b>397</b>	<b>174</b>	<b>65</b>	<b>636</b>	<b>100%</b>
	62.4%	27.4%	10.2%	100%	
	482	84	65	5	636
	75.8%	13.2%	10.2%	0.8%	100%

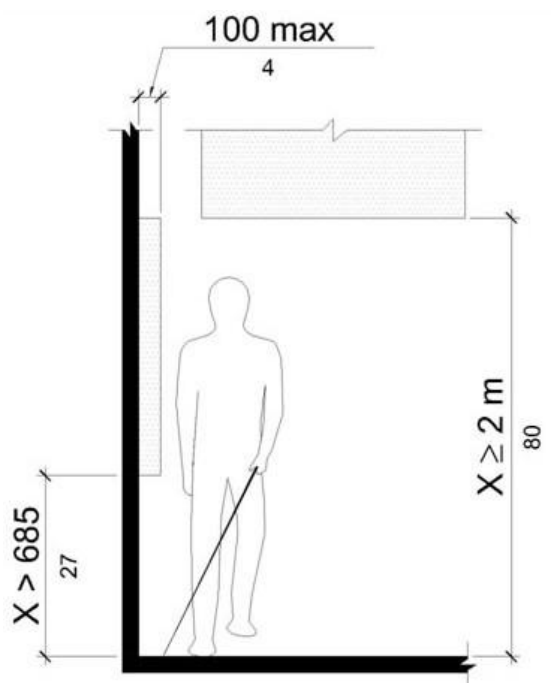
- First Priority
- Second Priority
- Third Priority
- Fourth Priority

### 2.5.1 Typical Barriers Found at County Fairgrounds

Below are typical barriers identified during the onsite assessment. The following are presented as examples and are not intended to be a comprehensive re-iteration of findings or barriers.

#### 2.5.1.1 Typical Low Mitigation Difficulty Barriers

**Typical Observation:** Tree branches obstructing vertical clearance above designated accessible parking space. [2010 ADA Standards 502.5.]



**Typical Observation:** Designated accessible parking spaces without surface marking/stripes to identify spaces and mark access aisles to discourage parking in them. [2010 ADA Standards [502.3.3.](#)]



**Typical Observation:** Designation signage without braille. [2010 ADA Standards [216.2](#) and [703.](#)]



**Typical Observation:** Toilet compartment door is not self-closing. [2010 ADA Standards [604.8.1.2.](#)]





**Typical Observation:** Toilet compartment door without pull (handle) both sides. [[2010 ADA Standards 604.8.1.2](#) and [404.2.7.](#)]



**Typical Observation:** Water supply and drain pipes are not insulated under lavatories. [[2010 ADA Standards: 606.5.](#)]



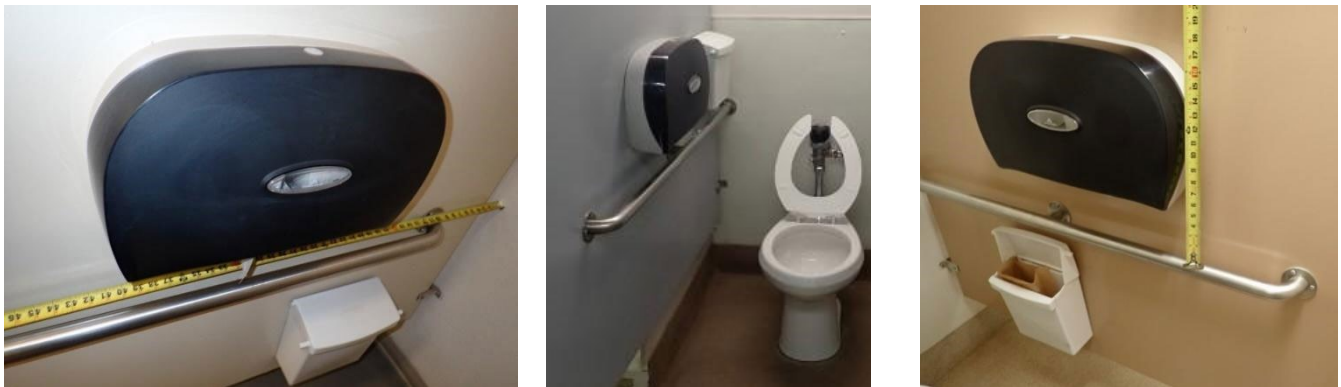
**Typical Observation:** Side grab bar does not extend 54 inches from rear wall. [[2010 ADA Standards 604.5.1.](#)]



**Typical Observation:** Operable part or hardware requires operation with two hands or tight grasping, pinching, or twisting of the wrist. [[ADA Standards 309.4.](#)]



**Typical Observation:** Objects mounted too close above grab bar. [[2010 ADA Standards 609.3.](#)]



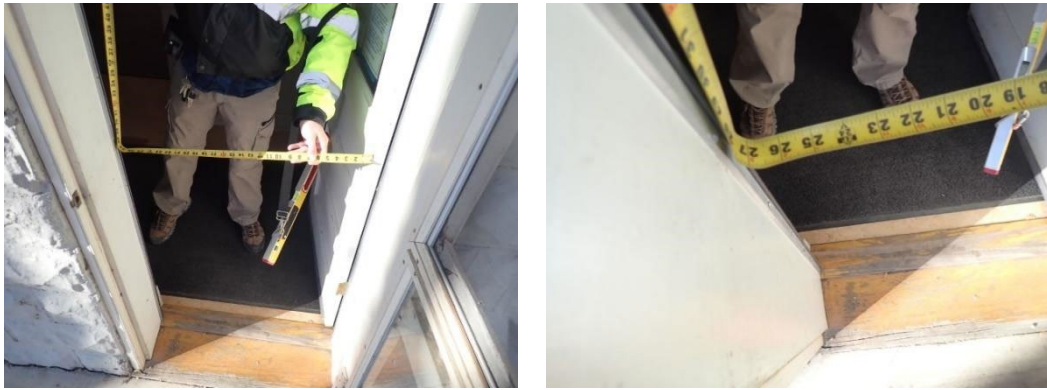
**Typical Observation:** The space between the wall and the grab bar is more than 1½ inches. [[2010 ADA Standards 609.3.](#)]





**2.5.1.2 Typical Moderate Mitigation Difficulty**

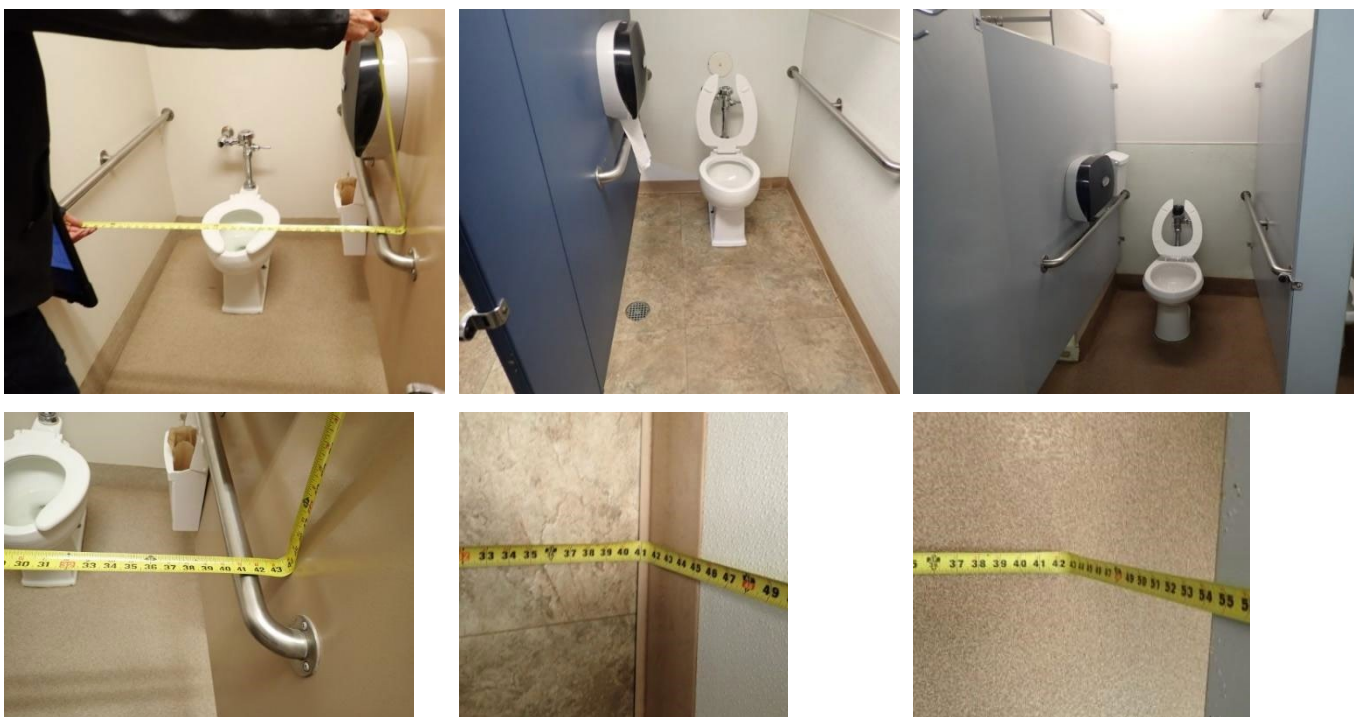
**Typical Observation:** Clear width of door opening is less than 32 inches. [2010 ADA Standards Reference: [404.2.3.](#)]



**Typical Observation:** Clear floor space at sink is too narrow. [2010 ADA Standards Reference: [606.2](#) and [305.3.](#)]



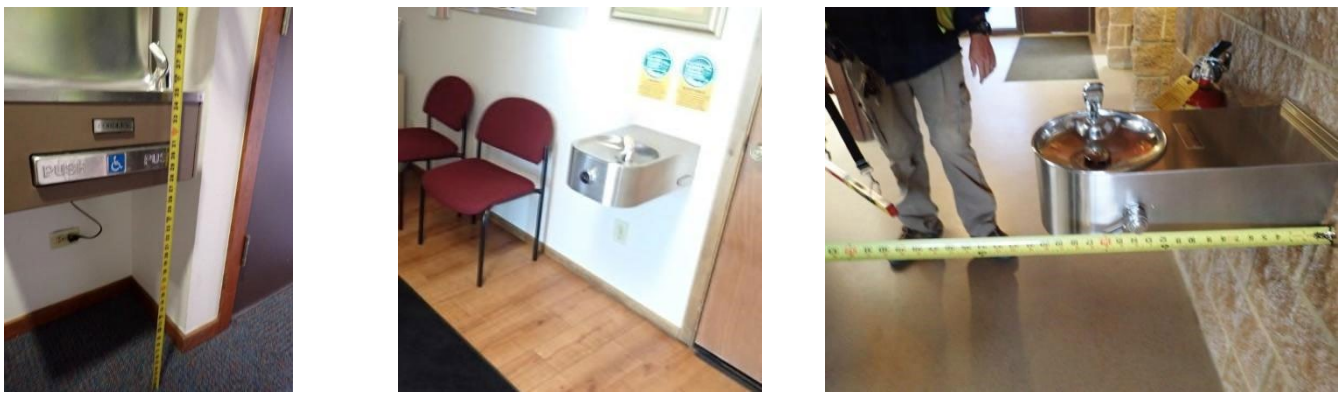
**Typical Observation:** Ambulatory toilet compartment too wide. [2010 ADA Standards Reference: [604.8.2.1.](#)]



**Typical Observation:** Centerline of toilet is too far from the wall. [2010 ADA Standards Reference: [604.2](#).]



**Typical Observation:** High-low drinking fountain not provided. [2010 ADA Standards Reference: [211.2](#) and [602](#).]



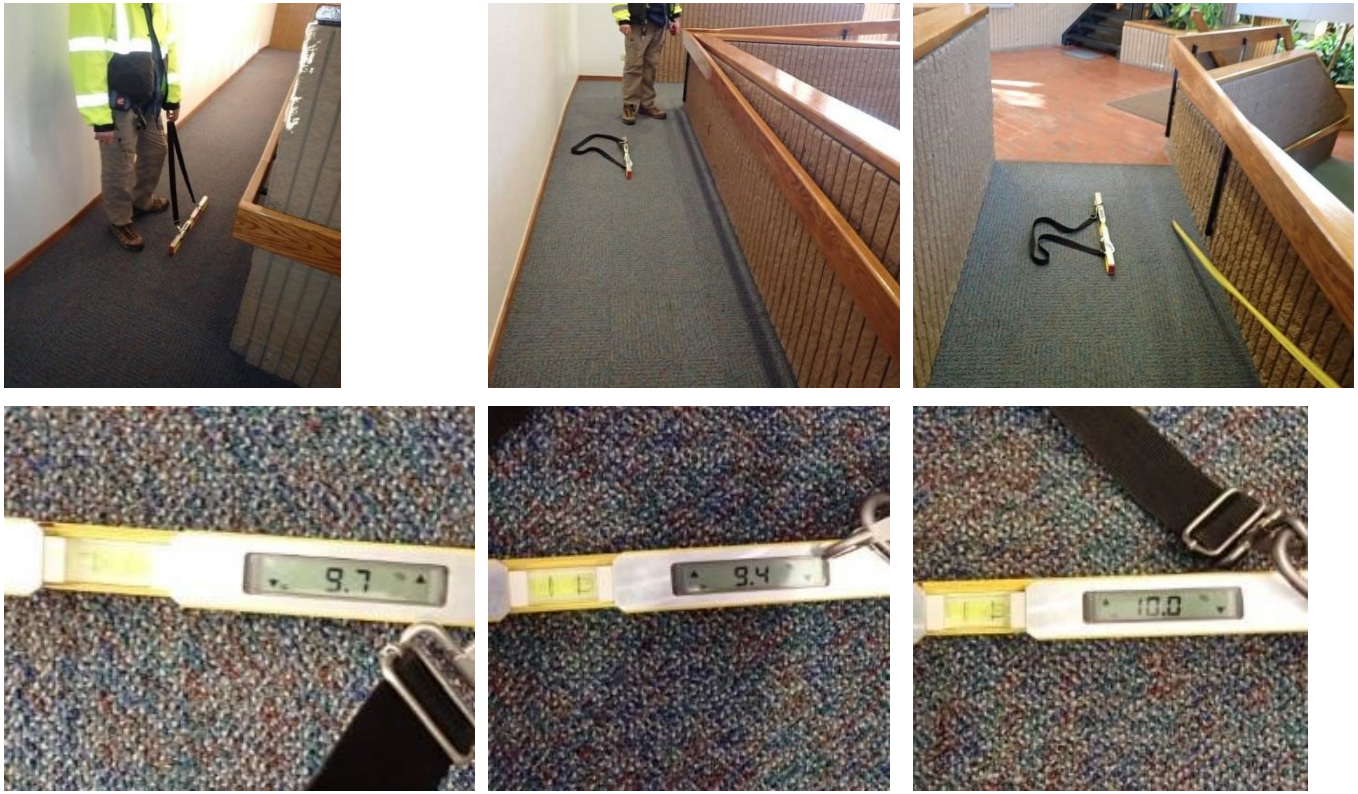
**Typical Observation:** Hydrant not properly centered within the clear ground space and obstacles in outdoor recreation access route (not best practices). [ABAAS (ODA) Reference: [1011.2.1](#), see table, and [1016.5](#).]





**2.5.1.3 Typical High Mitigation Difficulty**

**Typical Observation:** Ramp running slopes too steep. [2010 ADA Standards Reference: [405.2.](#)]



**Typical Observation:** Inaccessible shower compartments. [2010 ADA Standards Reference: [608.](#)]

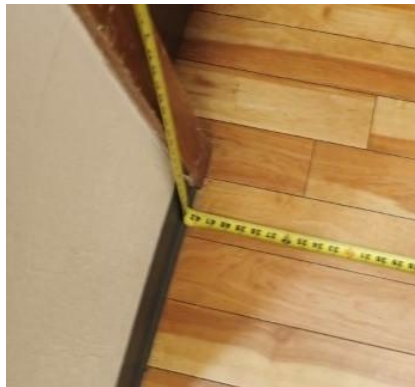
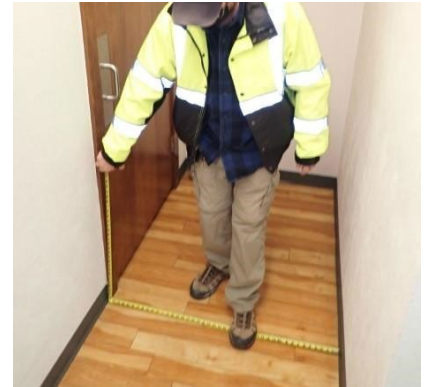




**Typical Observation:** Clear floor/maneuvering space too steep at drain. [2010 ADA Standards Reference: [305.2.](#)]



**Typical Observation:** Insufficient maneuvering clearance at restroom doors. [2010 ADA Standards Reference: [404.2.4.1.](#)]



## 2.6 Barriers to Program Access

Any elements or features of a facility having one or more attributes which are not consistent with the scoping and/or technical provisions of the ADA Standards, ABAAS/ODA, or other recognized accessibility guidance, are identified as *findings*. Such deficiencies which exist in rooms or spaces, where public access is not supervised or monitored by County staff, and prevent or might prevent access to a service, program, or activity, are identified as *barriers* to program access. These barriers have the highest priority for mitigation. When structural barrier removal is not a feasible, short-term option, mitigation of the barrier must be accomplished through alternative methods or means as soon as possible.

Barriers that exist in rooms or spaces, where public access is not supervised or monitored by County staff, are typically found in parking facilities, exterior walkways, facility entrances, at reception counters in lobby areas, and public restrooms. Other areas where public access is not regularly monitored include public sidewalks, multi-use paths, parks, and other recreation facilities. There is a significant possibility that even minor barriers may impede access to these facilities by qualified people with disabilities when County staff are not present to assist or respond to requests or complaints.

In rooms or spaces where County staff are present, such as the Justice Center, procedural measures to provide program access, for individuals with disabilities, can often mitigate barriers without physical barrier removal. When qualified individuals with disabilities can independently access public programs, in the most integrated setting appropriate to their needs, through reasonable modifications of policies, alternative venues or online access, architectural barrier removal may not be necessary.

## 3.0 TRANSITION PLAN CREATION

The County designated MTC's scope of work to include a survey of identified County buildings/facilities, trailheads/open spaces, and the County Fairgrounds. In addition, the County tasked the consultant with an evaluation of the County's *current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements* of the ADA's Part 35 regulations. The purpose of these processes is to ensure that the County can ensure ongoing compliance with title II of the ADA, providing inclusive programs for qualified people of all abilities. Implied in this process is the effort of the County to identify barriers, structural or procedural, which might impede access by qualified people to its services, programs, or activities. When those barriers are identified the County recognizes that it has the legal duty to find methods and means to overcome those barriers, whether caused by the absence of a qualified interpreter to provide equally effective communication for a person who is deaf, the inaccessible surface of a parking lot, or a sidewalk that is too narrow for a wheelchair user.

### 3.1 Where Can Facility Barriers Be Eliminated?

Most public entities expect a public presence in most of their facilities at some time. But some facilities and some areas of other facilities are off-limits to the public. In some areas of public buildings, public access is restricted at certain times or not allowed at all without supervision or escort by a public employee. Locations having such restrictions might include law enforcement facilities/jails or even the offices of workers such as employees providing social services. However, even in these areas there may be some spaces where physical barriers prevent or at minimum limit the full and equal participation of qualified individuals with disabilities.

An example of a space where barriers to a program cannot be facilitated by an employee, is a restroom within a public supervised area of a facility. When a restroom in a public supervised area is available for use by other members of the public, it must be accessible to and usable by individuals with disabilities, including people who use wheelchairs. Assisting with toileting, for people with disabilities, is not required of, or appropriate for County staff. When individuals are escorted by public employees into offices or meeting rooms and assistance with doors is provided or meetings can be held in an alternate space, rather than the employee's cubicle, then program access is being provided. In residential programs, such as the County jail, where participants are always accompanied or escorted by staff or have been assigned another participant as a personal care attendant, reach ranges and slopes that might otherwise be critical barriers, are generally not barriers to program access.

However, barriers such as protruding objects in circulation paths or alarm systems lacking a visible component may still be considered barriers to program access even in public supervised areas. Protrusions in circulation paths which are invisible to individuals who are blind and alarms which are inaudible to individuals who are deaf continue to present barriers to program access, as well as safety risks, even when individuals are provided with assistance. The safety risks may raise concerns in emergencies.

#### 3.1.1 Identifying Structural Barriers

The consultant, using appropriate tools and electronic tablet technology using proprietary software, conducted comprehensive measurement and observation of County facilities, collecting *as-is* conditions, focusing on those elements of the built environment which affect or might affect access by people with disabilities. Measurements and observations were analyzed for compliance with the appropriate minimum accessibility requirements. Results of the analysis was compiled in data tables which have been used in the development of this Transition Plan. The County was provided with findings, referencing applicable citations, recommendations for mitigation, and assessment of priorities by the consultant. The data represent snapshots in time and conditions identified in that data may have been remedied between the time the data was collected and the delivery of this plan. In other instances, some conditions may have deteriorated during that interval. While outside the scope of this project, the

consultant recommends the calculation of opinions of probable construction cost to provide budget level information to inform the scheduling of projects to remove barriers from County properties.

The ultimate purpose of this Transition Plan is to identify barriers where structural changes to facilities must be made to achieve program accessibility.

### **3.1.2 Identifying Non-Structural Issues**

The identification of *as-is* conditions which are not consistent with accessible design requirements is merely the beginning of the process. The County's efforts to assess the ability of staff to modify County policies, practices, and procedures to circumvent structural barriers and provide inclusive access, in the most integrated setting appropriate to the needs of qualified individuals with disabilities were facilitated by the consultant. Title II of the ADA does not necessarily require the County to make all facilities accessible and allows the County to find alternative methods or means to achieve program accessibility.

The County to discover means by which it can circumvent physical barriers and continue to provide inclusive access to its programs, took the following measures:

- Inventory and review of County policies/recommendation of revised and additional policies/guidance
- Interviews with County management to assess practices and understanding of ADA requirements
- Survey of County employees to identify gaps in ADA knowledge
- Interaction with staff to identify areas of facilities where public access is restricted, or where staff gives assistance which circumvents physical barriers to program accessibility

The County has reviewed and evaluated each finding in the collected data to determine whether the conditions identified present or might present barriers which limit or exclude opportunities for inclusive access to the services, programs, or activities in the location of the finding. The County acknowledges that in given spaces, for example, public sidewalks, trailheads/open spaces, and parking lots, without removing identified barriers, the programs provided in those spaces cannot be independently accessible to qualified people of all abilities in the most integrated setting appropriate to their needs.

The County will apply knowledge gained from completing its Self-evaluation to determine whether it would be better – more cost-effective – to resolve some of the structural findings through methods and means other than architectural barrier removal. The County recognizes that potentially, the relocation of some services, programs or activities may be the most practical and cost-effective means to surmount major structural barriers in its built environment. Programs which can be made virtually accessible, such as web-based applications and streamed public meetings, may eliminate the need to remove some more difficult and costly architectural barriers.

In spaces such as offices and public assembly areas, the County assumes that it has a duty to ensure that assistance and accommodations, including auxiliary aids and services to ensure effective communication, are readily available to people with disabilities with or without a making a request. The County will continue to make reasonable modifications to its policies, procedures, and practices to prevent disability-based discrimination, except in those instances where the County can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

Boulder County, with the participation of people with disabilities or organizations representing them, will expand the scheme for completing mitigation of barriers and assigning the responsibility for implementing the Transition Plan. Mitigation of barriers in facilities alone, outside of the context of the accessibility of the County's programs, policies, and practices, cannot ensure the absence of prohibited disability-based discrimination. Discoveries made through its Self-evaluation should be included. The consultant is available to the County to provide further guidance on implementation of its Transition Plan.



### 3.1.3 Consideration of “When Viewed in Its Entirety” Factors

A title II entity must operate each service, program, or activity so that the service, program, or activity, *when viewed in its entirety*, is readily accessible to and usable by individuals with disabilities. The phrase, *when viewed in its entirety*, has been the cause of some confusion and speculation since the Part 35 regulations were adopted. The regulations do not require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities. That said, there is not a formula to apply which numerically or proportionally defines how many or which of a public entity’s facilities must be made accessible to and usable by people with disabilities, to satisfy the *viewed in its entirety* language. In its [Title II Regulations 2010 Guidance and Section-by-Section Analysis](#), the DOJ gives the following explanation of factors to be assessed to determine whether a program is accessible *when viewed in its entirety*:

*In determining how many facilities of a multi-site program must be made accessible in order to make the overall program accessible, the standard has always been an assessment of what is reasonable under the circumstances to make the program readily accessible to and usable by individuals with disabilities, taking into account such factors as the size of the public entity, the particular program features offered at each site, the geographical distance between sites, the travel times to the sites, the number of sites, and availability of public transportation to the sites.*

In its guidance, DOJ gives as an illustration of how to interpret the requirement to make, each service, program, or activity conducted by a public entity, *when viewed in its entirety*, readily accessible to and usable by individuals with disabilities, a question of how many swimming pools must be accessible when a public entity has more than one pool. Determining which pool(s) to make accessible and whether more than one accessible pool is necessary to achieve program access requires considering several factors, including, but not limited to the following:

- size of the public entity
- geographical distance between pool sites
- whether more than one community is served by particular pools
- travel times to the pools
- total number of pools
- availability of lessons and other programs and amenities at each pool
- availability of public transportation to the pools

The above illustration, in the context of Boulder County, can be applied to trailheads (not swimming pools). The County provides the *activity* of hiking in natural settings, at nearly three dozen locations inspected for this project. At one level it might be argued that every trailhead offers the identical activity, meaning that within reason, perhaps only a few (maybe just one?) of the trailheads needs to provide accessible parking, restrooms, picnic tables, and trailhead signage consistent with ABAAS/ODA provisions. If that were the case, then perhaps the County need only offer one trailhead for everyone, assuming a single trail could provide the wide variety of hiking terrain, views, and other experiences currently offered by dozens of trails. However, it seems likely that the County’s many avid backcountry hikers would report that no two trails offer the same experience. Various trails may be favored for snowshoeing, birdwatching, or just to see the aspens turn in September. Some may only go as far as the trailhead having no further desire for exercise. Some may only visit the trailhead closest to home or the one which is on their way home from work. County staff will conduct an assessment, applying factors, such as those listed above, to determine which and how many trailheads must be accessible before the County can consider the *activity* of hiking in natural settings, to be accessible when viewed in its entirety.

Some County offices may have staff who travel to the homes of their clients. To some extent this practice could offset some facility barriers, thereby making a program, *viewed in its entirety*, accessible. At other offices, clients are typically served in areas where access is procedurally limited. Clients are accompanied, escorted, and or assisted

in these areas. These policies, procedures, and practices allow barriers to be avoided or otherwise mitigated through methods and means other than structural barrier removal, making a program, *viewed in its entirety*, accessible.

Nevertheless, there are certain barriers that might not be avoided, regardless of assistance provided by staff. For example, protruding objects in circulation paths continue to present potential hazards for individuals who are blind or visually impaired. Where others have access to public restrooms, at least one fully accessible restroom must be provided for individuals with disabilities, including those who use wheelchairs. Accessible parking, accessible routes from site arrival points (including public sidewalks, public transportation, and accessible parking) to each accessible entrance, and all the way to a point where service is provided, such as an accessible reception counter, are necessary to make the services, programs, and activities offered at any location accessible, *when viewed in their entirety*.

### **3.1.4 Virtual Program Access**

While access to online programs provided on websites or through other electronic means has certainly been recognized as a title II requirement as long ago as 1998 (when the Rehabilitation Act was amended to include section 508 provisions), the need to make virtual environments accessible has become critically important in the past year, as the County has limited in-person contact between its employees and the public to adapt to statewide public health restrictions. Technically, the regulations do not require the County to list virtual barriers, such as the absence of captions and audio description on streamed public meetings, in its Transition Plan. The advent of digital access to public services, programs, and activities on public websites, in many instances has made those programs more accessible to many people with disabilities, by eliminating the need for accessible transportation, facilities, etc. However, as County programs that would normally have been delivered in-person, are currently being delivered online through *virtual facilities* (i.e., websites), the County recognizes the need to make efforts to identify and remove virtual barriers, within the requirements of the Self-evaluation process.

See detailed website assessment, Appendix [C](#).

### **3.1.5 Barriers Not Necessarily Required to Be Removed**

It is not necessary to schedule structural barrier removal, where program access, *viewed in its entirety*, is provided in the most integrated setting appropriate to the needs of qualified individuals with disabilities, regardless of built elements of existing facilities which are not consistent accessible design standards.

While a Transition Plan must list these (potential) barriers, removal of such barriers is not necessarily required until certain events trigger structural barrier removal. Events which might trigger structural barrier removal include, but are not limited to the following:

- Request for a reasonable accommodation under title I of the ADA
- Alterations to these built elements
- Relocation of a program or repurposing of the space
- General renovation of a facility
- A determination that a finding was created by new construction or alteration after January 26, 1992, not covered by safe harbor
- A specific complaint from the public

It is important to consider a review of any construction, in a title II facility, after January 26, 1992. Findings that do not currently present barriers to program access, built since that date, must be removed. Any structural barrier that is the subject of a public complaint, unless it can be circumvented through alternative methods or means, must be removed.

Program access may be limited in those circumstances when a public entity can document that a modification in policy or eligibility criteria or architectural barrier removal would result in a fundamental alteration to the program, undue financial and administrative burdens, or contradiction of a legitimate safety requirement.

*In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance... would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. (§ 35.150(a)(3))*

It is important to note that, if the County determines a proposed action would cause an undue financial and administrative burden or a fundamental alteration, the County is required to take actions that would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the County.

### **3.1.6 Exceptions Allowing Less Than Full Compliance**

At times, it may be technically infeasible or structurally impracticable to fully comply with applicable ADA standards. *Structurally impracticability* applies to new construction which the ADA defines as construction that commenced after January 26, 1992. *Technically infeasible* applies to alterations of buildings or facilities that existed prior to January 26, 1992.

*Structural Impracticability. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features. (§ 35.151(a)(2)(i))*

*Technically Infeasible. With respect to an alteration of a building or a facility, something that has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements. (ADA Standards 106.5)*

If either of the above-mentioned conditions are deemed by the County to apply to a given barrier, room/space or facility, compliance with the applicable ADA standards is still required to the maximum extent feasible. For example, if it would be *technically infeasible* to widen a toilet compartment to a size usable by an individual who uses a wheelchair due to the bathroom containing a load bearing wall, the toilet compartment still must be made accessible for individuals who can use an [ambulatory compartment](#). In addition, all other elements within the restroom should be made accessible to the maximum extent feasible. This provision of the ADA exemplifies the reality that not all individuals with a disability use a wheelchair.

In addition, places of historical significance are not required to remove barriers that would “threaten or destroy” their historic significance. To be considered a historically significant site the building must be “eligible for listing in the National Register of Historic Places under the National Historic Preservation Act or... designated as historic under State or local law.” If the County asserts that the act of removing a barrier at a historical property would “threaten or destroy” historical significance, adherence to the applicable standards is still required to the maximum extent feasible and program access still must be provided.

## 3.2 Where to Begin

The cost of providing access to services, programs, and activities might be very high, when and if the only resolution to provide access involves major renovation or alteration of a facility, to remedy structural barriers. Conversely, in many cases, where difficult-to-mitigate physical barriers exist, methods and means other than architectural barrier removal may be able to provide access to services, programs, and activities at significant cost savings. The intention is to suggest a process by which some of the most difficult/expensive to mitigate findings can be eliminated without resorting to architectural barrier removal.

At the same time, the County will demonstrate progress in implementing the Transition Plan by eliminating many easily mitigated barriers (i.e., *low-hanging fruit*) in the short-term. Many of these barriers can be removed through normal maintenance or repair activities. Intrinsic to the recommended priorities for barrier mitigation is the idea that easily eliminated barriers should be addressed as quickly as possible. More complex and difficult to remove barriers will require extended time to organize resources and appropriate budgets.

The County will begin the implementation of a Transition Plan following this twofold approach. The County will begin actions to remove the *low-hanging fruit* immediately and simultaneous efforts to investigate all potential means to eliminate major physical barriers to access and establish budgets to fund eventual architectural mitigation projects.

The County has identified the Clerks satellite office on 136 Miners Drive, Lafayette as a leased property which the County will be vacating before the lease ends. The Public Works Building (2525 13<sup>th</sup> Street ) in Boulder is a shared ownership between Boulder County and Clinica. No data was collected (i.e., there are no findings or barriers) at Miners Drive. In public and employee common areas of the building which are utilized by the County, at the Public Works Building, 181 findings were documented. Of those 181 findings, only 78 are or might be barriers to program access.

The County will use a separate approach to prioritizing barrier removal in leased properties and when it chooses to lease facilities in the future. It is prudent to consider the cost of improvements to facilities that are not owned, when signing or terminating a lease and relocating might be more cost effective. Leased facilities may also have barriers that are not directly under the County's control; barriers for which a landlord is responsible. Should the County contemplate leasing spaces, in the future, it must take due diligence to ensure that such spaces comply with ADA Standards and make such facilities accessible to and usable by people of all abilities.

### 3.2.1 Barriers with Low Mitigation Difficulty (Low-Hanging Fruit)

Low difficulty barriers should be addressed as quickly as possible. However, when major renovations at a facility are anticipated, the removal of some low difficulty barriers may be postponed until a renovation is scheduled. Many of these barriers can be managed as in-house maintenance or repair activities. However, the County will take care that incremental adjustments or repairs do not result in wasted effort that will be removed by subsequent renovation to a facility. In some cases, where multiple attributes of an element are not compliant it will not be possible to make the element accessible without addressing all the attributes. For example, at a toilet, if a side grab bar's location is too high and too far from the back wall, its diameter is too small, and it is too short, then no amount of relocation can fix the deficiency without first acquiring a new grab bar between 1.25 and 2 inches in diameter and 42 inches long minimum.

Or, to give another example, re-stripping parking spaces and access aisles can be done easily for minimal cost, but it will not solve a maximum slope steeper than 1:48 (2.08 percent). However, relocation of designated accessible parking spaces to an alternate location where the maximum slope is compliant and connection to an accessible route is possible, might cost far less than the regrading and repaving the existing spaces which are too steep.



When maintenance and repair activities are used to resolve barriers to program access, the County will document these actions in the Transition Plan to track progress. Evidence of the adoption and implementation of a Transition Plan may be critical in the event of investigation of complaints or litigation.

### ***3.2.2 Barriers with High Mitigation Difficulty***

The County will consider, early in its deliberations, barriers categorized as having high mitigation difficulty or needing significant budgets. This will allow time to eliminate barriers where methods and means other than architectural barrier removal can be equally effective to provide programmatic access for qualified people of all abilities.

The consultants *Suggested Net Priorities* (which are provided to imply relative priority for remediation) for high difficulty barriers range from 1 to 36 for County buildings/facilities, 1 to 8 for County trailheads/open the time spaces, and 1 to 8 for the Fairgrounds. All these barriers should be considered first, to determine whether relocation of a program or methods or means other than architectural barrier removal can resolve program access issues. The potential cost savings justify the scrutiny necessary to identify alternative methods and means of resolving these findings.

Barriers in spaces used by the public, in particular outdoor spaces, such as trailheads, typically unsupervised spaces, have the highest intrinsic priority (or risk of discrimination) and often require a high level of cost and effort to accomplish removal.

Accessibility surveys typically find many barriers to program access in restrooms. Even in facilities where a significant amount of program access is facilitated by staff, privacy and independent access to toileting must be provided. When spaces such as toilet compartments are not sufficient to accommodate a wheelchair, assistance from staff is of little or no use, and inappropriate. Significantly, at the County's buildings/facilities nearly two-thirds (795 of 1,289 findings, 61.7 percent) of barriers found in restrooms are expected to require low mitigation difficulty. Of all high mitigation difficulty barriers, in all County buildings/facilities, slightly more than 1 in 5 (157 of 718 findings, 21.9 percent) are found in restrooms.

Where access to restrooms is most important, at trailheads/open spaces, about one-third (300 of 909, 33 percent) of barriers are found in restrooms. However, fewer than one-tenth (29 of 300, 9.7 percent) of barriers in restrooms anticipate high mitigation difficulty. Removal of most barriers (255 of 300, 85.0 percent) in restrooms at trailheads/open spaces, should take minimal effort and expense.

## 4.0 TRANSITION PLAN

### 4.1 Physical Obstacles in County Buildings/Facilities Limiting Program Access

Summary of key barrier removal actions required:

#### 4.1.1 Tentative Timeline:

(Priorities reevaluated every 3 years)

- Accessibility at all Maintenance items: 2021 – 2024 (Years 1-4)
- Accessibility at all Parking and Walkways: 2024-2030 (Years 4-6)
- Accessibility at all Entry Points: 2026-2028 (Years 6-8)
- Accessibility and barrier issues in Restrooms: 2030-2032 (Years 10-12)
- Accessibility at all Workplace areas: 2030-2032 (Years 10-12)
- Accessibility at all Fairgrounds: 2022-2028 (Years 2-6)
- Accessibility at all Trailheads and Open Space: 2022-2032 (Years 2-10)

#### 4.1.2 2021-2024: Maintenance Items

Summary of key barrier removal actions required:

- Minor adjustments to main entry door
- Remove or provide cane-detectable surfaces at all protrusions
- Provide accessible tactile signage for permanent spaces
- Remove/replace/adjust barriers along hallways and at doors
- Replace inaccessible operating hardware

#### 4.1.3 2024-2030: Parking and Walkways

Summary of key barrier removal actions required:

- Provide compliant slopes, dimensions, and markings at designated accessible parking spaces
- Remove and replace inaccessible sidewalk segments and ramp – exterior routes
- Remove or provide cane-detectable surfaces at all protrusions
- Remove and replace inaccessible sidewalk segments from the parking lot to front entry – exterior routes
- Provide compliant slopes, dimensions, and number of vehicle spaces at designated accessible parking spaces

#### 4.1.4 2026-2028: Entry Points

Summary of key barrier removal actions required:

- Lobby areas – remove barriers at doorway
- Lobby areas – remediate protrusions, operable parts, service counter, etc.
- Remove and replace excessive slopes, non-compliant hardware at the entrance
- Remove and replace inaccessible sidewalk segments from the parking lot to front entry – exterior routes

#### 4.1.5 2030-2032: Restrooms

Summary of key barrier removal actions required:

- Remove/replace/adjust barriers in all restrooms

#### 4.1.6 2030-2032: Workplace

Summary of key barrier removal actions required:

- Remove/replace/adjust barriers in break room
- Remove/replace/adjust barriers to conference rooms

- Provide accessible clearances and features throughout the facility at doorways

All other locations are projected to be addressed in years 5-10 with the assumption that we will receive adequate funding.

#### ***4.1.7 2026: The highest priority facilities have been ranked as follows:***

- Justice Center, Boulder
- Longmont Courts
- Clerk and Recorder
- St. Vrain Community Hub, Longmont
- Downtown Historic Courthouse
- Courthouse Annex, Boulder

#### ***4.1.8 2022-2025: Justice Center***

Summary of key barrier removal actions required:

- Provide compliant slopes, dimensions, and markings at designated accessible parking spaces
- Remove and replace inaccessible sidewalk segments– exterior routes
- Remove/replace/adjust barriers in all restrooms
- Provide accessible clearances and features at the entrance
- Provide accessible clearances throughout the facility at doors and elements available to the public
- Court Room – provide required accessible wheelchair spaces
- Court Room – ensure that signage for assistive listening system is provided

#### ***4.1.9 2022-2025: Longmont Courts***

Summary of key barrier removal actions required:

- Provide compliant slopes, dimensions, and markings at designated accessible parking spaces
- Remove and replace inaccessible sidewalk segments– exterior routes
- Remove/replace/adjust barriers in all restrooms
- Provide accessible clearances and features at the entrance
- Provide accessible clearances throughout the facility at doors and elements available to the public
- Court Room – provide required accessible wheelchair spaces
- Court Room – ensure that signage for assistive listening system is provided

#### ***4.1.10 2022-2025 Clerk and Recorder***

Summary of key barrier removal actions required:

- Provide compliant slopes, dimensions, and markings at designated accessible parking spaces
- Remove and replace inaccessible sidewalk segments– exterior routes
- Remove/replace/adjust barriers in all restrooms

#### ***4.1.11 2022-2025: St. Vrain Community Hub – Longmont***

Summary of key barrier removal actions required:

- Remove/replace/adjust barriers in all restrooms
- Provide accessible clearances throughout the facility at doors and elements available to the public
- Remove/replace/adjust barriers in break room
- Remove/replace/adjust barriers to conference rooms

- Provide accessible clearances and features throughout the facility at doorways

#### **4.1.12 2022-2025: Downtown Historic Courthouse**

Summary of key barrier removal actions required:

- Provide compliant slopes, dimensions, and markings at designated accessible parking spaces
- Remove and replace inaccessible sidewalk segments– exterior routes
- Remove/replace/adjust barriers in all restrooms
- Provide accessible clearances and features at the entrance
- Provide accessible clearances throughout the facility at doors and elements available to the public
- Hearing Room – provide required accessible wheelchair spaces
- Hearing Room – ensure that signage for assistive listening system is provided
- Provide accessible routes to and clear spaces at Hearing Room dais and podium

#### **4.1.13 2022-2025: Courthouse Annex**

Summary of key barrier removal actions required:

- Provide compliant slopes, dimensions, and markings at designated accessible parking spaces
- Remove and replace inaccessible sidewalk segments– exterior routes
- Remove/replace/adjust barriers in all restrooms
- Provide accessible clearances and features at the entrance
- Provide accessible clearances throughout the facility at doors and elements available to the public

## **4.2 Physical Obstacles in County Trailheads/Open Spaces Limiting Program Access**

Summary of key barrier removal actions required:

Tentative Timeline:

(Priorities reevaluated every 3 years)

- Accessibility at all Maintenance items: 2022 – 2028 (Years 1-6)
- Accessibility at all Parking and Walkways: 2024-2028 (Years 3-6)
- Accessibility at all Entry Points: 2022-2028 (Years 1-6)
- Accessibility and barrier issues in Restrooms: 2024-2028 (Years 3-6)

#### **4.2.1 2022-2028: Maintenance Items**

Summary of key barrier removal actions required:

- Provide an accessible ground surface to the outdoor picnic area
- Remove protrusions in outdoor circulation paths
- Provide accessible routes connecting features and amenities within site

#### **4.2.2 2024-2028: Parking and Walkways**

Summary of key barrier removal actions required:

- Provide minimum number of compliant accessible parking spaces with required access aisles, signs, and connection to accessible routes

#### **4.2.3 2022-2028: Entry Points**

Summary of key barrier removal actions required:



- Provide accessible routes from site arrival points to features and amenities (such as benches, trash receptacles, picnic tables, drinking fountains, etc.) at trailhead / open space

#### **4.2.4 2024-2028: Restrooms**

Summary of key barrier removal actions required:

- Replace existing portable restroom with accessible portable restroom
- Remove/replace/adjust barriers in all restrooms

#### **4.2.5 2022-2028: The highest priority Trailheads and Open Space have been ranked as follows:**

- Stearns Lake Trailhead at Carolyn Holmberg Preserve
- Mud Lake Trailhead
- Pella Crossing Trailhead
- Walden Ponds Wildlife Habitat Wally Toevs Trailhead
- Betasso Preserve

(Note: ADA upgrades currently underway at AHC/McIntosh Barn)

#### **4.2.6 2022-2028: Stearns Lake Trailhead at Carolyn Holmberg Preserve**

Summary of key barrier removal actions required:

- Provide an accessible ground surface
- Remove protrusions in outdoor circulation paths
- Remove/replace/adjust barriers in all restrooms
- Provide accessible routes connecting features and amenities within site
- Provide minimum number of compliant accessible parking spaces with required access aisles, signs, and connection to accessible routes

#### **4.2.7 2022-2028: Mud Lake Trailhead**

Summary of key barrier removal actions required:

- Provide an accessible ground surface to the outdoor picnic area
- Provide an accessible ground surface
- Remove protrusions in outdoor circulation paths
- Remove/replace/adjust barriers in all restrooms
- Provide accessible routes connecting features and amenities within site
- Provide minimum number of compliant accessible parking spaces with required access aisles, signs, and connection to accessible routes

#### **4.2.8 2022-2028: Pella Crossing Trailhead**

Summary of key barrier removal actions required:

- Provide an accessible ground surface to the outdoor picnic area
- Provide an accessible ground surface
- Remove protrusions in outdoor circulation paths

- Remove/replace/adjust barriers in all restrooms
- Provide accessible routes connecting features and amenities within site
- Provide minimum number of compliant accessible parking spaces with required access aisles, signs, and connection to accessible routes

#### **4.2.9 2022-2028: Walden Ponds Wildlife Habitat Wally Toevs Trailhead**

Summary of key barrier removal actions required:

- Provide an accessible ground surface to the outdoor picnic area
- Provide an accessible ground surface
- Remove protrusions in outdoor circulation paths
- Remove/replace/adjust barriers in all restrooms
- Provide accessible routes connecting features and amenities within site
- Provide minimum number of compliant accessible parking spaces with required access aisles, signs, and connection to accessible routes

#### **4.2.10 2022-2028: Betasso Preserve**

Summary of key barrier removal actions required:

- Provide an accessible ground surface to the outdoor picnic area
- Provide an accessible ground surface
- Remove protrusions in outdoor circulation paths
- Remove/replace/adjust barriers in all restrooms
- Provide accessible routes connecting features and amenities within site
- Provide minimum number of compliant accessible parking spaces with required access aisles, signs, and connection to accessible routes

### **4.3 Physical Obstacles at County Fairgrounds Limiting Program Access**

The Transition Plan priority schedule for removing barriers in the County Fairgrounds follows:

All locations are projected to be addressed in 1-7 years with the assumption that upgrades will be made during the Fairgrounds Master Plan Implementation.

#### **4.3.1 2022-2028: Fairgrounds Master Plan Implementation**

- Provide minimum number of compliant accessible parking spaces with required access aisles, signs, and connection to accessible routes
- Provide accessible routes from site arrival points to features and amenities (such as benches, trash receptacles, picnic tables, drinking fountains, etc.) at facility
- Provide accessible routes connecting features and amenities within site
- Provide accessible routes to and wheelchair spaces at both sides of court sports/team and player seating areas/spectator seating areas

#### **4.4 Individual(s) Responsible for Implementation of the Plan**

HR:

Julia K. Larsen; HR Director & ADA Coordinator

Public Works:

Karla Schultz

James Butler

David McLeod

Jesse Newcomb

Marc Dominguez

IT and Website:

Tim Thiessen

Conrad Gonzales

Barbara Halpin

Policy:

Carrie Doyle

Parks & Open Space:

Mary Olson

Jeffrey Moline

## 5.0 IMPLEMENTING THIS PLAN

An ADA Transition Plan is required when structural changes to facilities will be undertaken to achieve program accessibility. The Transition Plan sets forth the steps necessary to complete such changes. The Transition Plan is one outcome of the Self-evaluation process. A separate report detailing the Self-evaluation process and alternative methods and means identified to avoid costly structural solutions will be delivered when the process is completed. That report will include actions which have already been completed or initiated and identify other actions which will be taken to ensure that all County services, programs, and activities will be inclusive of qualified people of all abilities.

First and foremost, Boulder County will ensure that all services, programs, and activities, *when viewed in their entirety* are accessible to and usable by qualified individuals with disabilities. Every effort to eliminate barriers through alternative methods and means or through architectural barrier removal must be made to implement an effective Transition Plan. The County has deferred more than one-third (1,904/5,201) of findings in buildings which have been identified as conditions not currently limiting or preventing program access. These findings will not need to be remedied until triggered by subsequent events, because they do not affect access to County services, programs, or activities. Elimination of *low-hanging fruit* and long-term planning for high mitigation difficulty barriers – possibly through methods or means other than structural barrier removal – will begin immediately.

Second, regardless of program access, all architectural barriers caused by alterations or new construction must be structurally eliminated. Such architectural deficiencies in alterations or new construction have been prohibited since January 26, 1992. In addition, if any programs have been located or moved to inaccessible (owned or leased) facilities, since that date, architectural barriers in those facilities must be removed or the programs must be relocated to other sites and locations that comply with the 2010 ADA Standards. Research to identify dates of construction, origination of leases, and renewal of leases is a necessary component of the Transition Plan.

Third, budgetary and logistical considerations make immediate removal of all barriers impossible. The information provided to the County, through this project, allows short-term, mid-term, and long-term planning that will be spread across many fiscal years.

Finally, to the extent that facilities have been altered, built, or leased which are not compliant with the relevant standards for accessible design (i.e., the Uniform Federal Accessibility Standards [UFAS], the 1991 ADA Accessibility Guidelines [ADAAG], or the 2010 ADA Standards), the County will develop policies, procedures, and practices to avoid future deficiencies. Training for key individuals responsible for designing new facilities, renovating existing facilities, or negotiating leases for additional facilities, is essential. The County will strive to prevent the construction or acquisition of new barriers, in addition to removing those which currently exist. The County will adopt engineering criteria for developers and designers ensuring that the construction of new pedestrian facilities and alterations to facilities connecting new developments will be consistent with accessibility requirements and best practices to meet program access requirements of the ADA.



## 6.0 RESOURCES

### Information and Technical Assistance on the ADA

ADA Information Line: U.S. Department of Justice

ADA Information Line:

800-514-0301 (voice)

800-514-0383 (TTY)

Website: <https://www.ada.gov>

### U.S. Access Board

1331 F Street NW, Suite 1000

Washington, DC 20004-1111

Phone (voice): 202-272-0080, toll free: 800-872-2253

Phone (TTY): 202-272-0082, toll free: 800-993-2822

Fax: 202-272-0081

Email: [info@access-board.gov](mailto:info@access-board.gov)

Website: <https://www.access-board.gov>

2010 ADA Standards: <https://www.access-board.gov/ada/>

Architectural Barriers Act Accessibility Standards: <https://www.access-board.gov/aba/>

### Region 8 [Rocky Mountain ADA Center](#)

Address: Meeting the Challenge Inc.

3630 Sinton Road, Suite 103

Colorado Springs, CO 80907

Phone: 800.949.4232, 719.444.0268

### U.S. Department of Justice ADA Title II/Part 35 Regulations

Address: Civil Rights Division

950 Pennsylvania Avenue, NW

4CON, 9th Floor

Washington, DC 20530

Phone (voice): 800-514-0301

Phone (TTY): 800-514-0383

Website: [https://www.ada.gov/regs2010/titleII\\_2010/titleII\\_2010\\_regulations.htm](https://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm)

## 7.0 APPENDIX

- A. Executive Summary – ADA Facility and Trailheads Transition Plan Development
- B. Executive Summary – County Fairgrounds Facilities
- C. Website Tester /WCAG 2.1 Audit Report
- D. Summary: Management Interviews
- E. ADA Staff Knowledge Surveys
- F. Americans with Disabilities Act Policies Inventory and Review
- G. Americans with Disabilities Act Glossary of Terms and Acronyms
- H. Results of Public Input Survey
- I. Public Input Presentation

## Appendix A. Executive Summary – ADA Facility and Trailheads Transition Plan Development

## Appendix B. Executive Summary – County Fairgrounds Facilities



## Appendix C. Website Tester /WCAG 2.1 Audit Report

## Appendix D. Summary: Management Interviews

## Appendix E. ADA Staff Knowledge Surveys

## Appendix F. Americans with Disabilities Act Policies Inventory and Review



## Appendix G. Americans with Disabilities Act Glossary of Terms and Acronyms

## Appendix H. Public Input Survey Results

## Appendix I. Public Input Presentation